

ABSTRACT

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SEPARATION OF CHURCH AND STATE:

A STUDY OF THE INFLUENCE OF THE CATHOLIC CHURCH ON PUBLIC

POLICY

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The separation of church and state has been a misinterpreted theme throughout United States history. The Establishment Clause, within the 1st Amendment of the United States Constitution, plants the foundational premise for the separation of church and state. The misinterpretation stems from the uncertainty of the role of the church in governmental affairs, specifically those concerning public policy. The Catholic Church continues to be one of the many dominant entities throughout society in shaping the mindsets and influencing the behaviors of the public in the United States. Therefore, this study seeks to explain and identify the relevance, influence and effect of the Catholic Church in public policy processes as it relates to the separation of church and state. This study used the United States Conference of Catholic Bishops (USCCB) as the sample population, which consists of 174 bishops. The sample population was surveyed in order

to identify the influence of the Catholic Church on public policy processes in the United States. Of the sample population, 66 bishops responded to the survey. This study also used original documents for analysis purposes in order to indicate the relevance and effect of the Catholic Church on public policy processes in the United States. Through a combination of survey results and document analyses, the findings of this study indicate that the influence of the Catholic Church in public policy processes derives from Catholic Church leadership communication methods throughout society. The study findings also indicate that the relevance and effect of the Catholic Church originate from biblical doctrine driving the participation in the moral shaping of society and public policy processes.

SEPARATION OF CHURCH AND STATE:
A STUDY OF THE INFLUENCE OF THE CATHOLIC CHURCH ON PUBLIC
POLICY

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CHAPTER I

INTRODUCTION

The topic of this dissertation is “Separation of Church and State: A Study of the Influence of the Catholic Church on Public Policy.” This study will focus on the relevance, influence, and effect the Catholic Church has on public policy through leadership within various communities throughout the United States of America. The public policies to be investigated surround ethical-social behavior associated with same-sex marriage, capital punishment (the death penalty), and abortion. These policies were selected, because the Catholic Church is very forthright in its communication about public policy development concerning the selected policies. The Social Ethics component of such policies is based upon the rubric by which the Catholic Church functions, the Bible. According to the political philosopher, Reinhold Niebuhr, Social Ethics can be defined as “an interdisciplinary field of research and teaching which relates theology to the disciplines of the social sciences and religion to the problems of community life.”¹ The stance on the selected policies is based upon the rubric by which the Catholic Church functions, the Bible. Therefore, the issues mentioned above fall under the category of violations of that rubric according to the Catholic Church, thus resulting in open

1. Ronald H. Stone, *Reinhold Niebuhr: Prophet to Politicians* (Nashville: Abingdon Press, 1972), 230.

communications opposing public policies in support of such behavioral practices and public policies.

This chapter begins with a brief background description of the coined phrase “Separation of Church and State,” and its purpose which provides the historical basis for church involvement in government and vice-versa. Following the background will be the problem statement which outlines the need for the study, the problem associated with the need, and key concepts associated with the problem. The purpose of the study will determine the research method chosen along with the variables, specific population, and geographic location. The significance of this study will explain the uniqueness and benefit of the study in relation to previous research in the field. The assumptions and limitations section will highlight the characteristics relevant specifically to this study. The theoretical framework, research methods and research questions represent the discussion content of the study. This area will outline key factors to be addressed by the analysis of the research area, as well as the methods utilized in the achievement of the objectives of the study. The theoretical framework is based on Charles- Louis de Secondat, baron de La Brede et de Montesquieu’s (Montesquieu) Theory of Separation of Governmental Powers, David Easton’s Systems Theory, and Divine Command Theory.

Background

The prophetic nature of the Christian Church can be attributed to divine principles outlined within the Bible. The role which the church declares throughout society is based on such doctrine. The Catholic Church, in particular, has outlined its necessity to involve

itself in societal order due to biblical principles and the Catechism. The Catechism is the instrument utilized for reference in identifying the Catholic faith functioning and morals.² In acknowledging the church's relation to state affairs, biblical scripture is often used. In the case of the Catholic Church, the Catechism as well as scripture is used to substantiate involvement. For example, the Catechism states: "Where sin has perverted the social climate, it is necessary to call for the conversion of hearts and appeal to the grace of God. Charity urges just reforms. There is no solution to the social question apart from the Gospel."³ It also states that, "The authority required by the moral order derives from God. Let every person be subject to the governing authorities. For, there is no authority except from God."⁴ In these sections of the Catechism, the subject of authority and social action are dealt with as they relate to governing conflicts with the doctrine.

The second source of reference in substantiation of involvement in state affairs by the Church is the Bible. The Catholic Church indicates that the Bible clearly presents a rationale for its involvement. In Romans 13:1: "Let every person be subordinate to the higher authorities, for there is no authority except from God, and those that exist have been established by God."⁵ The Catholic Church indicates that there is to be an established respect for authorities of the world, but there is a direct call to action within the doctrine to act according to God's Will if the authorities violate God's Law. A

2. United States Conference of Catholic Bishops, "Catechism of the Catholic Church," available from <http://www.usccb.org/whoweare.shtml>; Internet; accessed 26 April 2010.

3. United States Conference of Catholic Bishops, "Catechism of the Catholic Church, 1896," available from <http://www.usccb.org/whoweare.shtml>; Internet; accessed 21 October 2010.

4. United States Conference of Catholic Bishops, "Catechism of the Catholic Church, 1899," available from <http://www.usccb.org/whoweare.shtml>; Internet; accessed 21 October 2010.

5. Rom 13:1 NAB

common biblical scripture that is referenced as well is “Do not conform yourselves to this age but be transformed by the renewal of your mind, that you may discern what is the will of God, what is good and pleasing and perfect.”⁶ The Catholic Church has used this biblical scripture to highlight the call to avoid being *of* the world while being *in* the world, thus denouncing acts of society in conflict with the doctrine. Such interpretation of Scripture and subsequent actions by the Catholic Church blur the line of separation between church and state.

The separation of church and state has been a constant debate since the creation of a central government within the United States of America. The theme referenced has been the U.S. Constitution, specifically the 1st Amendment which states: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.”⁷ Many give credit to Thomas Jefferson for establishing the separation of church and state due to an infamous letter written to the Danbury Baptist Association. During the period of the 1800 presidential campaign, it became evident that Jefferson was one who rejected the idea of God’s power over human affairs, whereas, Adams was a practicing Christian. Following the election of Jefferson, the Danbury Baptist Association reached out to Jefferson with two messages; one of congratulations, and the other an effort to keep Christianity at the forefront throughout all the states. Jefferson responded with a letter stating that:

6. Rom 12:2 NAB

7. U.S. Constitution, amend. 1.

Believing with you that religion is a matter that lies solely between man and his God, that he owes account to none other for his faith or his worship, that the legislative powers of government reach actions only, and not opinions, I contemplate with sovereign reverence that act of the whole American people which declared that their legislative should ‘make no law respecting an establishment of religion, or prohibiting the free exercise thereof,’ thus building a wall of separation between church and state.⁸

The language of the letter made it known that the newly elected President would not support the exercise of religious preference by the central government. “Jefferson saw religion through a similar lens as politics. Progress in religion, as in politics, required a ‘wall of separation’ between the religious public sphere and the state in order to prevent a powerful minority.”⁹

The relationship between church and state has been one steered by the aspiration for power. The debate surrounds the issue of who has the power to manipulate the public, and the impressing of specific ideals upon the governed. Jefferson made it clear that one religion shall not be uplifted or provided leverage over any other religion by the central government. This infused uncertainty where religious freedom came into play within the U.S. Constitution, for it limits the actions of the government on behalf of religion but does not limit church actions within the confines of government. “One consequence of this is that there is no absolute dichotomy between religion and politics –politics of

8. Derek H. Davis, “Thomas Jefferson and ‘The Wall of Separation’ Metaphor,” *Journal of Church & State* 45 (Winter 2003): 5.

9. JoHann N. Neem, “Beyond the Wall: Reinterpreting Jefferson’s Danbury Address,” *Journal of the Early Republic* 27 (Spring 2007): 145.

course is open to the nonreligious, and religion encompasses more than politics, but concern with social and political issues is one dimension of a religious way of life.”¹⁰

Operating under a specified religious umbrella as a citizen naturally guides the moral and ethical decision-making processes of life. Therefore, in understanding the motivations of government and the public controls of government, it can be concluded that government is indirectly guided by the moral and ethical nature of citizens—religion. According to Harold Koenig, “Religion is generally agreed on and involves beliefs, practices, and rituals related to the sacred.”¹¹ The issue is that there is no single agreed upon definition of religion due to the differences in belief systems amongst various faiths, and the faiths themselves have not identified this problem. The underlying question is “How can we be conscious of something we are not conscious of? Ignorance is a sleep that does not know itself as sleep, and therefore, there must be a process of awakening.”¹² This indicates that a lack of definition of the term religion goes to identity confusion and a lack of tolerance between different faiths. Therefore, faiths begin to define religion themselves and push separate agendas throughout societies dependent on that specific definition. The Catholic Church defines religion as “A set of beliefs and practices followed by those committed to the service and worship of God. The first commandment requires us to believe in God, to worship and serve him, as the first duty of the virtue of

10. Richard H. Jones, “Concerning Secularists’ Proposed Restrictions on the Role of Religion in American Politics,” *BYU Journal of Public Law* 8 (1994): 344.

11. Harold G. Koenig, MD, “Research on Religion, Spirituality, and Mental Health: A Review,” *The Canadian Journal of Psychiatry* 54 (2009): 284.

12. James P. Carse, *The Religious Case Against Belief* (New York: Penguin Group, 2008), 16.

religion.”¹³ These religious beliefs, practices, and rituals stand at the root of political parties. A key indicator of this is that:

The impetus and sustaining idea behind religious parties is not purely self-protective, though. A necessary condition is the conviction that religious doctrine or more abstract religious values should guide every aspect of life. Faith cannot be privatized. Believers should not be treated as ‘second-class citizens.’ The positive expressions of religious political identity are variable too, ranging from partisanship aimed at influencing public policy in ways that serve the essentials of ‘the faith’ or ‘faith to political activity aimed at demonstrating that religion is the vital underpinning of political order rightly understood, including liberal democracy.”¹⁴

In the past, the line of separation of church and state has been blurred to a fallible understanding of the actual separation. The role of religion throughout political practices has been driven to the extreme of eliminating religion within politics entirely, but how can religion be eliminated from politics if people drive politics and religion drives people? “Religion is never solely about life or death, or similar ‘other-worldly’ matters, or any strictly private matter—it concerns the whole of our lives here and now. As part of this, actions toward other people are an essential part of religious ways of life, whether these actions are expressed on a one-to-one basis or on a society-wide basis.”¹⁵ The issue is that “religion is often seen as a cultural background before which political interactions take place,”¹⁶ and the power of the church cannot overpower the central government.

13. United States Conference of Catholic Bishops, “Catechism of the Catholic Church,” available from <http://www.usccb.org/whoweare.shtml>; Internet; accessed 26 April 2010.

14. Nancy L. Rosenblum, “Religious Parties, Religious Political Identity, and The Cold Shoulder of Liberal Democratic Thought,” *Ethical Theory and Moral Practice* 6 (2003): 25.

15. Richard H. Jones, “Concerning Secularists,” 344.

16. Simon Fink, “Churches as Societal Veto Players: Religious Influence in Actor-Centered Theories of Policy-Making,” *West European Politics* 32 (January 2009): 78.

Practitioners of the Christian faith suggest a few stances in relation to religion and politics:

1) No person should be expected to leave their faith at the door when operating in the public square. But it is inappropriate to use religious or doctrinal differences to marginalize or disparage candidates, by either comparison or assertion. No religious test may be applied to candidates for public office---not by law, not by candidates, not by campaigns.

2) Candidates for public office should welcome the contributions that religion brings to society. But just as government may not endorse or favor a religious faith, candidates for public office are obliged, in their official capacity, to acknowledge that no faith can lay exclusive claim to the moral values that enrich our public life.¹⁷

Separation of church and state can be interpreted as the battle between religion and governmental influence. Within the United States, approximately 85% of Americans indicate a belief in God.¹⁸ This is important because of the connection of ideology to the functioning of society. Given that the Christian faith calls for a separation between the physical world and the spiritual world, behaviors must adjust as necessary without violating the moral code of the spiritual world. Fixed beliefs drive the resistance against behaviors of the physical world that do not coincide with the spiritual foundation. The support for such fixed beliefs is due to the Christian being directed out of fear (Old Testament) and love (New Testament) of God more so than Man. The afterlife is the quest for the Christian, for life on Earth is temporary in the eyes of those who operate daily based on religious values. This infers that a Christian will base decisions ultimately

17. Martin J. Medhurst, "Mitt Romney, 'Faith In America,' and the Dance of Religion and Politics in American Culture," *Rhetoric & Public Affairs* 12 (2009): 215.

18. James P. Carse, *The Religious Case*, 25.

on morals and values ingrained in religious practice, thus maintaining an intermingled relationship between the church and state.

Throughout the history of the United States, there has been a clear advantage to maintaining a relationship between church and state. According to James Carse, “So-called faith-based initiatives implemented by the American government can ennoble its policies at a modest price, or none at all, while the “faithful” can make use of governmental resources to subsidize their own initiatives.”¹⁹ Therefore, it is a relationship where each side gains power through association.

Problem Statement

Although there has been an attempt by political leadership to maintain a separation between church and state, the church has played a key role in shaping public policy. One church in particular, the Catholic Church, has been extremely vocal in response to issues declared unethical or immoral according to the Christian doctrine by which it operates. Therefore, any public policy that falls in violation of the doctrine, the Catholic Church believes it has a duty to denounce such activity.

The major body that has an impact on the position of the Catholic Church throughout the nation is referred to as the United States Conference of Catholic Bishops (USCCB), formerly the National Conference of Catholic Bishops (NCCB) and United States Catholic Conference (USCC). Over the past two decades, the Catholic Church has vocalized its concern and generated doctrines addressing issues of abortion, same-sex

19. James P. Carse, *The Religious Case*, 153.

marriage, and the death penalty. The Catholic Church has generated communications regarding each issue from proposed Amendments to the U.S. Constitution to specific documents detailing the position of the Catholic Church on such policy issues. There is a concern that the Church is influencing the government to adopt policies of its chosen religious practices, thus decision-making processes in relation to public policies are determined by a specific religion and this violates the 1st Amendment.

All of the issues addressed by the Catholic Church, in relation to public policies, have to do with questions of ethics or morals and not necessarily the law. On the issue of abortion, the Catholic Church stipulates its position within the Catechism of the Catholic Church stating that “human life must be respected and protected absolutely from the moment of conception. From the first moment of his existence, a human being must be recognized as having the rights of a person.”²⁰ As recently as May, 2010, the Secretariat of Pro-Life Activities representing USCCB sent a letter to Congress voicing concern about the Patient Protection and Affordable Care Act. The letter, authored by Cardinal Daniel N. DiNardo, expressed that “the Act is extremely flawed” in regards to its application toward abortion in that it permits the use of federal funds in cases of rape and incest.²¹ When considering the issue of same-sex marriage, the Catholic Church strongly urges that the union of marriage is only between man and woman as indicated by the Bible. The USCCB proposed an Amendment to Congress, S.J. Res. 30 also known as the Federal Marriage Amendment, and has set forth as its primary goal in relation to the

20. Lindsey Disney and Larry Poston, “The Breath of Life: Christian Perspectives on Conception and Ensoulment,” *Anglican Theological Review* 92 (2010): 271.

21. Cardinal Daniel N. DiNardo, *Letter Urging Congress to Remedy Abortion & Conscience Flaws in Health Care Reform Law* [on-line]; available from <http://www.usccb.org/healthcare/cardinal-dinardo-HR5111-ltr.pdf>.

institution of marriage as “To work for laws and public policies that recognize marriage as a union of a man and a woman, strengthen family life, and protect religious liberty.”²²

The third issue, capital punishment, is denounced by the Catholic Church due to its position on the preserving of human life. The Catholic Church has positioned itself to affect key areas of policy within the United States in maintaining a headquarters in Washington, D.C. [Congress] and a Broadcasting office in New York City [National Communication]. One must question the motives of the Catholic Church, whether it is to promote good amongst all people or to promote Catholic principles through public policy governing all people or both.

Purpose of the Study

The purpose of this study is to contribute to the existing literature on the impact of the Catholic Church on public policy and the blurred lines of the separation of church and state. In addition, this study intends to highlight the impact of church leadership within the Catholic Church on the public through the communication of ideologies via sermons and other forms of speech. This mixed methods study seeks to pinpoint key doctrines representing the position of the Catholic Church on public policy issues released, and to clarify the activities and nature of the Catholic leadership pertaining to political involvement throughout the United States. In particular, this case study will focus on the United States Conference of Catholic Bishops and the communication materials

22. United States Conference of Catholic Bishops, “USCCB Priorities,” available from <http://www.usccb.org/whoweare.shtml>; Internet; accessed 26 April 2010.

disseminated from their national conferences or headquarters located in Washington, D.C. The techniques selected for this study consists of a descriptive survey of the United States Conference of Catholic Bishops and an explicatory analysis of doctrines developed by the United States Conference of Catholic Bishops representing the Catholic Church's position regarding specific controversial public policy issues.

Significance of the Study

This study will be a unique approach to the problem of the lack of separation of church and state, the outreach of the Catholic Church, and its impact on public policy. Over the past two decades, the USCCB has reported positions on behalf of the Catholic Church as a body. These positions have focused on ethical issues with policies stipulated by the United States Government. This study is important because it illuminates the power of the Catholic Church throughout numerous societies, and its operations on a national level within Congress. The study also brings notice to the issue of the diminishing separation of church and state, and how the initial intention of the separation is not enforced in current society. If the Catholic Church has the power to sway votes within Congress based on religious institutional beliefs, then this is a key indicator of one church/religion being uplifted within the confines of government. This practice goes against the 1st Amendment and the intentions of Jefferson and Montesquieu.

The results of this research intend to make a contribution to the existing literature through the analysis of three key areas of religious concern within the Catholic doctrine and practice: abortion, same-sex marriage, and the death penalty. The degree to which the

Catholic Church has vocalized its concern and attempted to sway public policies is profound, and has never been grouped in such a fashion to identify motive and violations of law. This study also seeks to identify the current positions of the Catholic Church on these ethical issues in relation to public policy, and the study will be critical of the latest communications of the Catholic Church on the specified issues.

Theoretical Framework

There are three theories being utilized in this study to substantiate where the research falls and they are: Charles- Louis de Secondat, baron de La Brede et de Montesquieu's (Montesquieu) Theory of Separation of Governmental Powers, David Easton's Systems Theory, and Divine Command Theory. These theories coincide with the research area of this study in that they are applicable to the separation of church and state, the influence of organizations, and the notion of God's law remaining superior to civil law. These theories seek to explain the actions of the USCCB on behalf of the Catholic Church within the United States of America.

Montesquieu's theory on separation of church and state indicates that the separation lies with the powers of each institution, and that they both check one another. In most instances, it is possible that religious institutions provide support that the state needs in circumstances where the laws are too fragile.²³ The relationship between the two is substantiated in the above theory, which still holds true in current times. The Church considers itself to have a rite of passage to interject itself into governmental affairs due to

23. Charles de Secondat Baron de Montesquieu, *The Spirit of Laws* (New York: Prometheus Books, 2002), 37.

the historical power presence of the institution, and the acknowledgement of the institution by the government. The strength of this theory is that it outlines the relationship between the church and state, and the relevancy of the church in politics. The theory is limited in that it does not provide the reason for the amount of influence that the church has on policy development and formation. The theory primarily lists the church as an enforcing body in relation to the state. Therefore, an additional theory was needed in order to substantiate why the church feels compelled to influence public policy.

David Easton's Systems Theory reflects a more contemporary outlook on the influence of societal entities/organizations over government processes, and identifies the demand of those institutions throughout society. This theory will be utilized to explain the connection of religious institutions and government as it relates to public policy processes. In defining the political system, David Easton indicates that it is "the authoritative allocation of values for a society."²⁴ The focus on values is the connection between the institution and government. The Church's motivation is to secure its value and values in public policy processes.

The theory chosen in order to represent the angle of influence is the Divine Command Theory. The Divine Command Theory states that moral actions depend on God, and that the obligation of high morals ingrained in the obedience to God's commands.²⁵ Therefore, Divine Command Theory directs the church to act when moral obligations are at risk or threatened in obedience to God. This substantiates the Catholic

24. David Easton, *A Systems Analysis of Political Life*, Wiley,(Chicago: University of Chicago Press,1979).

25. Internet Encyclopedia of Philosophy, "Divine Command Theory," available from <http://www.iep.utm.edu/divine-c/>; Internet; accessed 26 April 2010.

Church's essentiality in acting on such issues that violate the Will of God, according to their religion. Montesquieu mentions this very issue in his writing within *Spirit of Laws* indicating that the "Men who think of themselves sure of the rewards of the other life are above the power of the legislator; they look upon death with too much contempt. How shall the man be restrained by laws who believe that the greatest pain the magistrate can inflict will end in a moment to begin his happiness?"²⁶ This explains the Divine Command Theory in that the Catholic Church does not see itself as an institution governed by civil law unless it coincides with the Will of God. The strength of this theory is that it explains the actions of the Catholic Church with regard to public policy and proposed actions of public policy in relation to issues in violation of the divine law. The limitation of this theory is that it does not provide a specific religion base, nor does it provide a definitive description of what is morally correct.

Overall, the influence of the Catholic Church has two paths of direction: one being the involvement in governmental action (enforcement), and the other being the determination of policy (impact). One path deals with the separation of church and state and the other with power. The power of religion stems from the notion of being believed by the people; whereas human laws are followed or obeyed out of fear for liberty. Religion is more believable due to its historical reverence, and the fact that it is difficult to disprove the various phenomena of association.²⁷ Therefore, the church will constantly enforce obedience to God for reasons beyond life on Earth, which is the reason that Divine Command Theory is applicable to this study.

26. Charles de Secondat Baron de Montesquieu, *The Spirit*, 36.

27. *Ibid.*, 59.

Definitions

USCCB: The United States Conference of Catholic Bishops (USCCB) is an assembly of the hierarchy of the United States and the U.S. Virgin Islands who jointly exercise certain pastoral functions on behalf of the Christian faithful of the United States. The purpose of the Conference is to promote the greater good which the Church offers humankind, especially through forms and programs of the apostolate fittingly adapted to the circumstances of time and place. This purpose is drawn from the universal law of the Church and applies to the Episcopal conferences which are established all over the world for the same purpose.²⁸

The Catholic Church: Greek word for universal. First used in the title Catholic Church in a letter written by St. Ignatius of Antioch to the Christians of Smyrna about 107 A.D. The universal Church that is spread throughout the world; the local Church is that of a particular locality, such as a diocese. The Church embraces all its members--on earth, in heaven, in purgatory.²⁹

Public Policy: A method of action selected from among alternatives and in light of given conditions to guide and determine present and future decisions of a governed population.

28. United States Conference of Catholic Bishops, "About Us," available from <http://www.usccb.org/whoweare.shtml>; Internet; accessed 26 April 2010.

29. United States Conference of Catholic Bishops, "About Us," available from <http://www.usccb.org/whoweare.shtml>; Internet; accessed 26 April 2010.

Separation of Church and State: A concept based in the Establishment Clause, found in the First Amendment of the U.S. Constitution.³⁰

First Amendment of the U.S. Constitution: Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.³¹

Assumptions

The assumptions in relation to this study are as follows: 1) All bishops who will be surveyed in relation to this study are male; 2) All bishops who will be surveyed reside within the United States of America; and 3) All bishops are actively involved in some public policy-related activity.

Limitations

The limitation of this study is that only U.S. bishops will be surveyed in reference to political influence of the Catholic Church, excluding priests, staff and lay persons associated with the Catholic Church.

Research Methods

30. US Legal, "Separation of Church and State Law & Legal Definition." available from <http://definitions.uslegal.com/s/separation-of-church-and-state>; Internet; accessed 12 September 2010.

31. The U.S. Constitution Online, "The United States Constitution," available from <http://www.usconstitution.net/const.html#Am1>; Internet; accessed 12 September 2010.

The mixed methods approach to this research distinguishes it from other studies that are conclusively quantitative or qualitative in nature, and that lack original analysis of information. When selecting a research strategy, one must consider the parameters surrounding the data and access to information in relation to the subject-content area. Three conditions to consider are: 1) the research questions being presented in relation to subject area, 2) the amount of control that the researcher will have over the events associated with the research study, and 3) the primary focal point of the research whether it is on historical or contemporary events.³² Case studies are commonly used in the academic fields of policy, law, and social science research in general. There are key concerns with the use of case studies such as: the lack of rigor or possibility of the insertion of personal views and biases, the fact that traditionally it is difficult to arrive at a generalized conclusion from a single case, and the possibility of a massive final document.³³

In general within the last three decades, research conducted on the Catholic Church has focused on family planning and abuses within the Church, which leaves gaps in the literature as far as the Church's impact on public policy. The family planning aspect derived from the Roe v. Wade decision in 1973 and the outrage of the Catholic Church. The Catholic Church was upset at the possibility of the government's promotion of abortion, and clearly communicated its objection. The Catholic Church enabled and

32. Robert K. Yin, *Case Study Research Design and Method*, (California: Sage Publications, Inc, 1989), 16.

33. *Ibid.*, 21.

authorized the violation of laws permitting abortion practice.³⁴ The other areas of research have focused on more of a criminal justice perspective lacking the involvement of public policy. Therefore, this study is original in that a specified church and specified issues of public policy impact are being used as measures.

This study will focus on the United States Conference of Catholic Bishops. The Conference was originally a council (National Catholic War Council) developed to aid spiritually in times of war, but the name was changed to a conference rather than a council. This was due to the desire of the Catholic Church to separate itself from being relatable to legal institutions. The newly formed conference split and formed the National Conference of Catholic Bishops and United States Catholic Conference in 1966, but in 2001, the two combined and formed the United States Conference of Catholic Bishops. According to the church statistics, there are approximately 258 bishops within the United States as of 2007. As of September 2009, 40 of the 258 bishops were heads of committees or sub-committees. Through these committees, there are 5 key goals or priorities of the USCCB and the three issues of focus for this study lie within those goals in relation to public policies.

The mixed methods approach for this study is used because there is a need for additional information that can only be explored through a few techniques, a survey and original document analysis. According to Robert Yin, a case study can be defined as “an empirical inquiry that investigates a contemporary phenomenon within its real-life context when the boundaries between phenomenon and context are not clearly evident

34. Gene Burns, “Commitments and Non-Commitments: The Social Radicalism of U.S. Catholic Bishops,” *Theory and Society* 21 (1992): 721.

and in which multiple sources of evidence are used.”³⁵ The case study analysis allows for the investigation of phenomena within contemporary society from a realist perspective.³⁶ The case study also allows for the discovery of essential points within documents from USCCB that would otherwise be unclear through quantitative methods. The information from the documents of the USCCB is:

1. Annual general assembly reports discussing the order of the meeting and discussion topics in relation to agenda issues.
2. Formal doctrines issued by the current Pope and past Popes during the timeframe discussing any of the key issues of public policy: abortion, gay marriage, and the death penalty.
3. Reports from general meetings during June and November of each year discussing the key public policy issues: abortion, gay marriage, and the death penalty.
4. Speeches and formal letters issued by bishops of the USCCB pertaining to the key areas of focus: abortion, gay marriage, and the death penalty.

Additionally, the survey will provide quantitative data in order to substantiate the research questions of this study. The questions within the survey will focus on three key areas: demographics, participation, and influence. Bishops will be assessed according to their responses as to influence within USCCB. Provided that a large sample is acquired

35. Robert K. Yin, *Case Study*, 23.

36. Sheila Payne, David Fields, Liz Rolls, Sheila Hawker, & Chris Kerr, “Case Study Research Methods in End-of-Life Care: Reflections on Three Studies Aim,” *Journal of Advanced Nursing* 58 (May 2007): 237.

from the population of USCCB, significant conclusions will be determined regarding the impact of the USCCB on public policy. The information will be accessed through electronic databases statistical data of the USCCB and publications of the USCCB. The difficult nature of acquiring information stems from the availability of the bishops due to their various geographic locations throughout the United States.

Research Questions

1. In what ways do Catholic bishops influence public policy in the U.S.?
2. In what ways is the common theme, “separation of church and state,” diminishing in relation to public policy?
3. How does the Catholic Church define its role in public policy processes?

Summary

This study is organized into 5 chapters. Chapter 1 will consist of the Introduction of the study. Chapter 2 is titled Literature Review and will be a review of the existing literature on the separation of church and state, the role of the Church, and the historical presence of abortion, gay marriage, and the death penalty in relation to public policy and religion. Chapter 3 will provide an extensive breakdown of the origin of the Catholic Church and its teachings. Chapter 4 will highlight the results of the techniques, survey and analysis of documents in order to reach conclusions about the Catholic Church, specifically the USCCB. Chapter 5 concludes the study by providing implications, recommendations, and a summary of the entire study.

CHAPTER II

LITERATURE REVIEW

This study is a contribution to present literature on the subject of the influence of the Catholic Church on public policy within the United States. In addition to analyzing the influence of the Catholic Church, this study seeks to highlight selected focused public policies of the Catholic Church. The influence that the Catholic Church utilizes derives from a foundation of biblical beliefs shared with the population through sermons, organizational activities, and advocacy. It has been documented that churches within the United States influence the public primarily through “congregational life presenting myriad opportunities and information that help structure the civic engagement and political opinions of church members; indeed, the political life of church members cannot be properly understood without a detailed explanation of how and why congregations exert such influence over their members.”¹ Therefore, it is essential that a thorough understanding of the practices of Catholic Church is explained in order to validate such influential activities.

This chapter will highlight the literature that was reviewed and found useful to the purposes of research on the issues of separation of church and state, and public policies of

1. Paul A. Djupe and Christopher P. Gilbert, *The Political Influence of Churches* (New York: Cambridge University Press, 2009), 4.

controversial nature. These public policies are same-sex marriage, abortion, and the death penalty. The literature review will focus on proponents and opponents of the separation of church and state, and provide a historical overview of each policy in relation to separation of church and state.

Separation of Church and State

The involvement of religion in politics tends to be a misunderstood sector in the political arena, which many have yet to comprehend. This misunderstanding stems from the misinterpretation of the 1st Amendment, which consists of two separate clauses in reference to religion, liberty and government.² The 1st Amendment states that: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.”³ This Amendment evolved into a belief amongst the American public that religion must remain excluded from all aspects of government and governmental processes. This is not the intent of the Establishment Clause, otherwise known as the first section of the First Amendment. Religion, during that time (1787), was an integral part of society. The structure of life and functioning was based on Judeo-Christian principles. Therefore, religion does not solely function as a private matter individually but as a ‘social/political’ realm as well.⁴ The Establishment Clause does not state that religion is prohibited from existing in the politics, for a thorough understanding of the meaning of

2. Joyce A. Baugh, “Religion and Politics: Do Black Churches Impermissibly Mix Them?,” *Journal of Religious Thought* 50 (1993/94): 84.

3. U.S. Constitution, Amend. I.

4. Richard H. Jones, “Concerning the Secularists,” 360.

the Clause distinguishes between establishment and prohibition.⁵

The separation of church and state originated based on an acknowledgment of the Danbury Baptist Association by Thomas Jefferson during the Constitutional time period. The essentiality of the understanding is paramount to the role of religion within society. According to Phillip Hamburger:

The redefinition of American religious liberty as separation of church and state needs to be considered within the context of America's broader ideas, culture, and society. Amid these wider circumstances, including changing popular perceptions and fears, Americans gradually transformed their understanding of religious liberty. Increasingly, Americans conceived their freedom to require an independence from churches, and they feared the demands of one church in particular. To limit such threats, Americans called for a separation of church and state, and eventually the U.S. Supreme Court gave their new conception of religious liberty the force of law.⁶

The religious liberty portion of the Establishment Clause indeed reaffirms that the ability to express religious beliefs is a constitutional right. The concept of religious expression in politics conflicts with how the separation of church and state has been defined throughout modern society. In the *Schempp* case, Justice Brennan stated in his opinion:

The line we must draw between the permissible and the impermissible is one which accords with history and faithfully reflects the understanding of the Founding Fathers. What the Framers meant to foreclose, and what our decision under the Establishment Clause have forbidden, are those involvements of religious with secular institutions which (a) serve the essentially religious activities of religious institutions; (b) employ the organs of government for essentially religious purposes; or (c) use essentially religious means to serve government ends, where secular means would suffice. When the secular and religious institutions become involved in such a manner, there inhere in the relationship precisely those dangers—as much to church as to state—which the Framers feared would subvert religious liberty and the strength of a system of

5. Richard H. Jones, "Concerning the Secularists," 360.

6. Charles McDaniel, "The Decline of the Separation Principle in the Baptist Tradition of Religious Liberty," *Journal of Church & State* 50 (2008): 427.

secular government. On the other hand, there may be myriad forms of involvements of government with religion which do not import such dangers and therefore should not, in my judgment, be deemed to violate the Establishment Clause.⁷

The distinction on which Justice Brennan placed emphasis was the underlying tone of liberty. This notion of liberty must be preserved by the state in order for the original intent of the Establishment Clause to remain in effect. According to Robert Audi, “liberal states should maintain a separation of church and state, a separation that incorporates three basic principles: the state must permit the practice of any religion that does not violate individuals’ basic human rights; the state must not give preference to one religion over another; and the state must not favor or disfavor religion as such (in effect, the state must respect the right not to be religious).”⁸

According to those of the Catholic Church, the concern of the state should be morality, and this comes through respect for life and human dignity; therefore, when the state does not function according to this principle, the Church is obligated to vocalize such concerns.⁹ There are a few concerns with this stance of the Catholic Church. One being the influential factor involved with this perspective and the blurred line of limitations on the Church. Given this consistent concern, an examination of religious-conflicting public policies occurs as to whether the policies align with the religion.¹⁰ An example of such a policy was that involving prayer in schools. In the case of *Engel v.*

7. *Abington School District v. Schempp*, 374 U.S. 203 (1963).

8. Zachary Hoskins, “On Highest Authority: Do Religious Reasons Have a Place in Public Policy Debates?,” *Social Theory and Practice* 35 (2009): 396.

9. Andrew Essig, “Faithful Citizenship,” *The Catholic Social Science Review* 15 (2010): 238.

10. Joyce A. Baugh, “Religion and Politics,” 84.

Vitale, it was found that the reciting of a voluntary school prayer was unconstitutional.¹¹ Those of varying religious faiths expressed concern for the lack of respect or recognition of one religion over another. This is a clear circumstance where the division of church and state were exercised in accordance with the Establishment Clause.

There are various reasons for citizens getting involved in public policy processes whether it is religious or non-religious in nature. Robert Audi argues that the line of separation should be maintained regarding religion and church involvement in public policy. Audi cites many reasons as to why that separation should be maintained: “(1) religious reasons tend to be regarded by those holding them as representing an infallible supreme authority; (2) religious reasons tend to lead to condemnation, by the religious, of those who hold different views; (3) religious reasons often dictate religious practices, and thus may be seen by nonbelievers as religious domination; (4) religious reasons are susceptible to manipulation by cults or fanatical clergy; (5) with religious reasons come dangers of an inflated sense of self-importance; (6) religious reasons tend to foster a stubborn, passionate concern with the behavior of nonbelievers; (7) the centrality and delicacy of religious liberty engenders particular resentment in the face of religious coercion; and (8) the religious tend to be particularly concerned that their religious reasons are embraced by their children, grandchildren, and so on.”¹²

The proponents and opponents of the separation of church and state note a common thread regarding the conceptualization of relations between church and state.

11. *Engel v. Vitale*, 370 U.S. 421 (1962).

12. Zachary Hoskins, “On Highest Authority,” 400-401.

Some researchers claim that the separation raises the liveliness of the church in that it causes them to be increasingly influential on public policy. On the other hand, other researchers indicate that the separation causes a demeaning strength of the church in relation to influence over public policy. According to Minkenberg, “churches that are financially and legally closely tied to the state—have problems acting as interest groups, as they have to pursue institutional interests.”¹³

Role of Religion

The role of religion in society deals directly with political involvement and the separation of church and state. Given that the separation remains blurred, it is difficult to determine the role of religion in societal operations. Many polls indicate that approximately 90% of all Americans are religious, and that approximately 85% are Christians.¹⁴ This information is important due to the constant reference back to the separation of church and state, for the people make-up the state and the church. The religious nature of the American people indicates a clear adherence to belief systems and behavioral allegiances to them. Many Christians attempt to be what are referred to, as ‘good’ societal players, but find themselves perplexed by the battle between heaven and earth as far as the concept of religion.¹⁵ Often times, religion is seen as cultural

13. Simon Fink, “Churches as Societal Veto Players: Religious Influence in Actor-Centered Theories of Policy-Making,” *West European Politics* 32 (2009): 84.

14. Derek H. Davis, “Christian Faith and Political Involvement in Today’s Culture War,” *Journal of Church & State* 38 (1996): 477.

15. *Ibid.*, 477.

relationship where political actions occur as result thereof.¹⁶ This further indicates that public policies are driven by belief systems of individuals.

Within the Catholic Church, leadership teaches that it is important for Catholics to practice the teachings of the doctrine. Therefore, one can assume that the Catholic Church directs Catholics to base decision-making upon this rubric. The church's role within society points to the shaping of thought, thus impacting behaviors. In relation to governmental affairs, this is profound due to the fact that there are many Catholic, political leaders. Thus, the Catholic Church expects for those leaders to base their decisions in their roles on doctrine. This is important to the role of the church in such public policy processes, because this speaks to the degree of influence. The Catholic Church stands as an institution that supports societal actions that appear parallel to the teachings of the church. The ultimate role of the Catholic Church in relation to the role of religion in society is one that seeks to guide behavior, from a moral and ethical framework, through many outlets of political leadership aligned with the Catholic Church.

Politics, as it relates to religion and its role, can be complex in definition. According to Harold Laswell, "politics is who gets what, when, and how."¹⁷ In many instances, the "who" are those who contain the most power throughout society. In cases where religious organizations remain highly organized, the quest for such goals is quite reachable. This type of power can be defined as:

16. Simon Fink, "Churches as Societal Veto Players," 78.

17. Andrew Essig, "Faithful Citizenship," 237.

An integral part of the human experience. People possess the capabilities and cognizance to direct forces towards their desired ends, and this impacts how individuals relate to one another. When people establish governing institutions, they allocate designated amounts of power to political authorities, who are then in the position to make binding decisions backed by the force of law. How political authorities exercise this political power in relation to their citizens and towards other nations, Archbishop Charles Chaput notes, ‘raises moral, and therefore religious, questions about the nature of right and wrong, and what constitutes the common good.’¹⁸

The power of religious organizations, as mentioned above, stems from the threat of organized religion. According to believers, privatization of faith is impossible, and faith is what lies beneath the influence of public policy as it relates to the role of religion.¹⁹

There are many who argue that there is no place for religion in politics and support the separation, thus placing emphasis on liberty. According to Andrew Essig, Catholics throughout the United States are in a precarious situation due to the forces of society such as:

First, Catholic politicians at times reject their faith for political expediency. This is manifested when politicians claim to be personally opposed to an immoral policy, but publicly support it in the name of their constituents. Their actions add a certain degree of legitimacy to the notion that religion should be reserved to an individual’s private space, and ought not to play a role in the public realm. Second, the American bishops have been reluctant to step forward when the occasion calls for it.²⁰

Others have argued that the restriction of the role of religion would be detrimental to the foundation of American democracy. According to Archbishop Charles Chaput, “the best way to kill a democracy is for people to remove their religious and moral convictions from their political decision-making. If people really believe something, they’ll always

18. Andrew Essig, “Faithful Citizenship,” 237.

19. Nancy Rosenbaum, “Religious Parties,” 26.

20. Andrew Essig, “Faithful Citizenship,” 241.

act on it as a matter of conscience....So the idea of forcing religion out of the public policy debate is not only unwise, its anti-democratic.”²¹ The validation of morals along with heightened religion or religious connotations in politics has raised the level of importance of religious institutions in society as a whole.²²

Church Involvement

Most Americans align themselves with a specific religious faith or organization that has some kind of political presence, and often those institutions are designed to bring light to lawmakers regarding public policies relatable to the ‘theological and social underpinnings’ of the religion.²³ The issue at hand is that the religious denominations and groups have a diminishing presence at the forefront of social progress and influence over public policy in recent years.²⁴ Thus, church influence depends on their aptitude to be primary players in society and recruit additional supporters of the religious denomination or group.²⁵

In discussing the influence of the church in political processes, one must distinguish between religious faith and religious belief as it relates to the decision to get involved with specific policy efforts. According to Michael Perry, religious faith is “trust

21. Andrew Essig, “Faithful Citizenship,” 239.

22. N. Eugene Walls, “Religion and Support for Same-Sex Marriage: Implications from the Literature,” *Journal of Gay and Lesbian Social Services* 22 (2010): 113.

23. Joe Micon, “Limestone Prophets: Gauging the Effectiveness of Religious Political Action Organizations that Lobby State Legislatures,” *Sociology of Religion* 69 (2008): 397.

24. Simon Fink, “Churches as Societal Veto Players,” 79.

25. *Ibid.*, 82.

in the ultimate meaningfulness of life—that is, the ultimate meaningfulness of the world and of one’s own life, one’s own being, as part of and related to, as embedded in, the world;” whereas, religious belief is “religious faith mediated by—understood and expressed in the medium of –words, whether concretely, in stories, or abstractly, in concepts and ideas.”²⁶ It is through the religious belief that expression and demonstration in public policy efforts rise.

Religious belief is most often revealed through political activities such as lobbying, political candidate appearances during election periods, and public policy processes that contradict the religious belief. For example, political candidates will often utilize churches as campaigning grounds, and will incorporate some of the beliefs of the religious denomination or group into speeches in order to sway the congregation. The restriction associated with such an activity is that churches may not endorse a specific candidate, because it can jeopardize their tax-exempt status. Therefore, churches tread lightly on political involvement/ activities in direct relation to the church as an institution, but this does not mean that churches may not play a role in public policy. In *Walz v. Tax Commission*, Chief Justice Burger stated that “adherents of particular faiths and individual churches frequently take strong positions on public issues....Of course, churches as much as secular bodies and private citizens have that right.”²⁷ In reference to funds used in such activities, Justice Brennan took a similar stance to Chief Justice Burger stating in his opinion:

26. Richard H. Jones, “Concerning the Secularists,” 347.

27. *Walz v. Tax Commission of the City of New York*, 397 U.S. 664 (1970).

Any assumption that a church building itself is used for exclusively religious activities, however, rests on a simplistic view of ordinary church operations. As the appellee's brief cogently observes....Often a particular church will use the same personnel, facilities and source of funds to carry out both its secular and religious activities. Thus, the same people who gather in church facilities for religious worship and study may return to these facilities to participate in Boy Scout activities, to promote antipoverty causes, to discuss public issues, or to listen to chamber music. Accordingly, the funds used to maintain the facilities as a place for religious worship and study also maintain them as a place for secular activities beneficial to the community as a whole. Even during formal worship services, churches frequently collect the funds used to finance their secular operations and make decisions regarding their nature.²⁸

The Catholic Church has been a religious institution that has played an integral role in public policy processes throughout American history. In fact, the Church has made a huge effort to organize the masses of Catholics, grow the Catholic community and provide a resolution to the existing social problems while impressing Catholic principles upon those involved with public policy processes.²⁹ According to the Catechism of the Catholic Church:

It is the duty of citizens to contribute along with the civil authorities to the good of society in a spirit of truth, justice, solidarity, and freedom. The love and service of one's country follow from the duty of gratitude and belong to the order of charity. Submission to legitimate authorities and service of the common good require citizens to fulfill their roles in the life of the political community.³⁰

In essence, church involvement in political processes represents more than just a moral or ethical conscience role, for the 'legitimacy of a law or policy' must be measured against the religious motive.³¹

28. *Walz v. Tax Commission of the City of New York*, 397 U.S. 664 (1970).

29. Nancy Rosenbum, "Religious Parties," 30.

30. *Catechism of the Catholic Church*, no. 2239.

31. Stephanie Courtois, "Multiculturalism and Equal Treatment: Scope and Limits of the Uniform Treatment Approach," *South African Journal of Philosophy* 28 (2009): 296.

Public Policy: Same-Sex Marriage

Introduction

Same-sex marriage has evolved into a controversial issue during the past decade within the United States. It is a public policy issue that not only affects the private sector but also the public sector. Recently, the state governments have issued decisions in cases and through legislation in agreement/ disagreement with the supportive public policy. In recognizing same-sex marriage, the many forms primarily include benefits through constitutional amendments or statutes governing unions legally between homosexuals.³² Some of the benefits through civil unions, like those proposed in Colorado's Referendum I in 2006 include:

- duty to support one another and joint responsibility for debts;
- protections under the state Probate Code with respect to inheritance, guardianship and conservatorship;
- the ability to adopt jointly;
- medical decision-making for an incapacitated partner as a proxy decision-maker;
- the right to be named a dependent under a partner's health insurance policy;
- the right to take possession of a deceased partner's last remains and make decisions regarding burial or cremation;
- standing to sue for wrongful death of a partner;
- the right not to be compelled to testify against a partner;
- application of laws governing public benefit and pension plans.³³

Over the course of the time period of 1993 to 2009, there were various illustrations of interpretive language in regard to same-sex marriage within seven states.³⁴

These protective measures were taken by the supreme courts of the seven states:

32. Louis Thorson, "Same-Sex Divorce and Wisconsin Courts: Imperfect Harmony," *Marquette Law Review* 92 (2009): 617.

33. Michael Brewer, "Colorado's Battle Over Domestic Partnerships and Marriage Equality in 2006," *Journal of GLBT Family Studies* 4 (2008): 120.

34. Neal Devins, "How State Supreme Courts Take Consequences Into Account: Toward a State-Centered Understanding State Constitutionalism," *Stanford Law Review* 62 (2010): 1675.

Massachusetts, California, Connecticut, Iowa, Vermont, New Jersey, and Hawaii. Four of the states mandated same-sex marriage, two mandated same-sex marriage or civil unions, and one indicated that it would review their ban on same-sex marriage. This indicates a slight movement towards a change in public policy in defining the concept of not only marriage within the United States, but the process by which states adopt policies.

In particular within the state of California, citizens have voiced their opinions regarding same-sex marriage policy, primarily based on personal beliefs. During the March 2000 election in California, Proposition 22 was placed on the ballot. Proposition 22 was a provision included in the California Family Code indicating that “Only marriage between a man and a woman is valid or recognized in California.”³⁵ This proposition placed California in the national spotlight due to the lack of definition of marriage throughout the United States. The debate over rights, equal protection and societal relations became a primary concern amongst California state lawmakers. Proposition 22 not only restricted same-sex couples from marrying within California, but it also would not allow for the recognition of same-sex marriages affirmed outside of the state. The challenges to the proposition as far as recognition of marriages outside of the state of California were insignificant due to the fact that no states outside of California had laws of such a nature or granted same-sex marriage licenses.³⁶

Following the proposition, there were several public policy debates over the evolving public opinion on same-sex marriage. Lawmakers began to listen to citizens in

35. William C. Duncan, “Speaking Up for Marriage,” *Harvard Journal of Law & Public Policy* 32 (2009): 915.

36. Scott L. Cummings and Douglas NeJaime, “Lawyering for Marriage Equality,” *UCLA Law Review* 57 (2010): 1262.

their quest for homosexual rights in relation to marriage. Within recent years, lawmakers of California passed a bill approving same-sex marriage on two separate occasions, but Governor Schwarzenegger vetoed them both and vowed to fight against the movement.³⁷ This was an interesting situation, because the Governor denounced same-sex marriage adamantly due to personal belief. The constant debate between lawmakers and the governor transitioned into a clear response known as Proposition 8.

Proposition 8 was a response to supporters of Proposition 22, California lawmakers and those who outwardly opposed same-sex marriage throughout the state of California. Proposition 8 received enough signatures so that it could be placed on the ballot in the November 2008 general election. The proposition gained a majority vote, which legalized same-sex marriage in the state of California. Proposition 8 had to be deemed a revision and not an amendment so that the power was removed from lawmakers to the public.³⁸ Opponents of Proposition 8 challenged the passing of the revision immediately following the date of effect, but the policy remains in effect.

Key Cases

The situation in California is a prime example of how cases brought before the court result in legislation regarding controversial public policies. Several states continued to have cases brought before the courts regarding same-sex marriage. The states battled over issues such as jurisdiction, definition of marriage, restrictions and discrimination.

37. Neal Devins, "How State Supreme Courts," 1679.

38. Judith A. Young, "Same-Sex Marriage in California: After Proposition 8 Passed and Before the California Supreme Court Decision on the Challenge to Proposition 8," *Lincoln Law Review* 36 (2008): 161-162.

The common debate rests upon the circumstance that public policies such as same-sex marriage are just like social movements that depending on the time period and location may be successful due to the political culture.³⁹

Baehr v. Lewin

The discrepancy of same-sex marriage challenges began in the early 1990s within Hawaii. In *Baehr v. Lewin*, 1993, same-sex couples attempted to marry within Hawaii, but were denied marriage licenses. The couples challenged the Hawaiian Marriage Law by contesting that they were being discriminated against based on sex.⁴⁰ The Court found that the restriction on marriage was a violation of law, and this ruling caused a national awakening of same-sex protections. Following the decision handed down by the Supreme Court of Hawaii, those involved within the political spectrum responded.

The lawmakers and voters of Hawaii responded with the passing of an amendment which gave the power to lawmakers regarding same-sex marriage. This act was very interesting due to the decision made by the legislature previously indicating that marriage should be reserved for heterosexual couples.⁴¹ In reference to the amendment put through by the electorate, it was essentially a compromise between the electorate and the legislature. The compromise was that in exchange for the legislature having the final

39. Arnold Fleischmann and Laura Moyer, "Competing Social Movements and Local Political Culture: Voting on Ballot Propositions to Ban Same-Sex Marriage in the U.S. States," *Social Science Quarterly* 90 (2009): 135.

40. *Baehr v. Lewin*, 74 Haw. 530, 852 P. 2d 44 (1993).

41. Hawaii Constitution Article 1, § 23.

decision on same-sex marriage, all individuals would have the right to select another individual to which a restricted amount of rights would be granted.⁴²

Baker v. State

In the state of Vermont, the debate over same-sex marriage carried on through litigation as well due to the case raised in Hawaii. Lesbians and gay men of Vermont began to challenge the restrictions in order to receive the same rights granted by the state of Hawaii. In the case of *Baker v State*, 1999, three same-sex couples applied for marriage licenses and were denied based on the marriage statutes in Vermont. The couples challenged the state and the court found that the denial of same-sex marriage licenses violated the Common Benefits Clause within Vermont's Constitution.⁴³ The Common Benefits Clause states that:

That government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation, or community, and not for the particular emolument or advantage of any single person, family, or set of persons, who are a part only of that community; and that the community hath an indubitable, unalienable, and indefeasible right, to reform or alter government, in such manner as shall be, by that community, judged most conducive to the public weal.⁴⁴

The lower court, in which the case was heard, came to the conclusion that the state did present a valid case of interest in denying same-sex couples marriage licenses, and therefore, took a similar stance to Hawaii.⁴⁵ Vermont was the first state to side with

42. Scott L. Cummings and Douglas NeJaime, "Lawyering," 1250.

43. *Baker v. State*, 98-032 (Vermont Supreme Court 1999).

44. V.T. Const. art.VII.

45. Beth Robinson, "Same-Sex Marriage in Law and Society: Dartmouth College's Law Day Program 2009," *Vermont Law Review* 34 (2009): 232-233.

Hawaii in the issuance of civil unions, but they expanded the realm by providing all the benefits and accountability of marriage while titled a civil union.⁴⁶

Goodridge v. Department of Public Health

In the case of Massachusetts, a similar circumstance occurred as in Vermont in 2003. This was another case of state power and the exercise of that thereof. As documented, the United States Supreme Court establishes a base for the states to operate within the guidelines of their respective constitutions.⁴⁷ In the case of Goodridge v. Department of Public Health, denial of marriage to several same-sex couples was once again brought before a state supreme court.⁴⁸ In particular, the case in Massachusetts caused a split (4-3) amongst the court based on morality and personal beliefs. Prior to the Massachusetts decision in 2003, the court defined marriage in Massachusetts as being between members of the opposite sex.⁴⁹ As public opinion changes, so does public policy. Thus, the Massachusetts Supreme Judicial Court supported the claim of the same-sex couples in stating:

The absence of any reasonable relationship between, on the one hand, an absolute disqualification of same-sex couples who wish to enter into civil marriage and, on the other, protection of public health, safety, or general welfare, suggests that the marriage restriction is rooted in persistent prejudices against persons who are (or who are believed to be) homosexual.⁵⁰

46. Jennifer Levi, "Toward a More Perfect Union: The Road to Marriage Equality for Same-Sex Couples," *Widener Law Journal* 13 (2004): 844.

47. John M. Greaney, "Breaking Down Barriers: The Goodridge Decision and Modern Civil Rights," *Albany Law Review* 72 (2009): 609.

48. Goodridge v. Dep't of Public Health, 798 N.E.2d (Mass. 2003).

49. Adam J. MacLeod, "The Search for Moral Neutrality in Same-Sex Marriage Decisions," *BYU Journal of Public Law* 23 (2008): 5.

50. Louis Thorson, "Same-Sex Divorce," 625.

Langan v. St.Vincent's Hospital and Chambers v. Ormiston

Although several cases were heard in various states due to the denial of marriage licenses to same-sex couples during 1993 to 2003, other states had issues concerning state differences. Remaining states without civil union laws remain indecisive as it relates to honoring marriage as a 'fundamental' liberty, whereas to abandon the institution itself based on same-sex issues would create extreme cases as to discrimination under state constitutions.⁵¹ In the case of New York, there was a same-sex marriage case specifically involving a wrongful death suit. This case, Langan v. St.Vincent's Hospital, consisted of a same-sex couple who were civil-union partners residing in New York. One of the partners died as a result of surgery in St.Vincent's Hospital, and the living partner brought suit against the hospital.⁵² The court decided that the partner had no legal basis for the suit due to the fact that their civil union was legalized in Vermont. Therefore, New York did not have to honor the civil union under the New York Wrongful Death Act, because New York did not have any laws concerning same-sex marriage.⁵³

Another case concerning differences between states took place in the state of Rhode Island in 2007. In Chambers v. Ormiston, a civil-union couple married in Massachusetts but resided in Rhode Island. The couple attempted to legally divorce some years later, but they were denied based on the fact that Rhode Island did not contain any same-sex marriage laws. Therefore, the family court found that it lacked the jurisdiction

51. Pamela Karlan, "Let's Call the Whole Thing Off: Can States Abolish the Institution of Marriage?" *California Law Review* 98 (2002): 707.

52. Langan v. St.Vincent's Hospital, 765 N.Y.S.2d 411 (N.Y. Sup. Ct. 2003).

53. Arthur S. Leonard, "New York Recognition of a Legal Status for Same-Sex Couples: A Rapidly Developing Story," *New York Law School Law Review* 54 (2009): 483.

over such matters.⁵⁴ This case places emphasis on the difficulty of not only dissolving civil unions but also basic recognition throughout all states, because this is technically a “no-divorce public policy for same-sex couples.”⁵⁵

Defense of Marriage

The defense of marriage has been at the forefront of all of the public policy debates amongst the states in cases pertaining to same-sex marriage. The major component of the defense of marriage is the infamous Defense of Marriage Act (DOMA), which was signed into law by President Bill Clinton in 1996.⁵⁶ The DOMA stipulates that states have no obligation to honor other states’ “same-sex unions.”⁵⁷ According to Lynn Wardle, the one provision of the DOMA that stipulates such is as follows:

No State, territory, or possession of the United States, or Indian tribe, shall be required to give effect to any public act, record, *or judicial proceeding* of any other State, territory, possession, or tribe respecting a relationship between persons of the same sex that is treated as a marriage under the laws of such other State, territory, possession, or tribe, or a right or claim arising from such relationship.⁵⁸

The DOMA has two key purposes outlined by the Committee on the Judiciary: “The first is to defend the institution of traditional heterosexual marriage,” and “the second is to protect the right of the States to formulate their own public policy regarding the legal

54. *Chambers v. Ormiston*, 935 A.2d (R.I. 2007).

55. Louis Thorson, “Same-Sex Divorce,” 629.

56. “Litigating the Defense of Marriage Act: The Next Battleground for Same-Sex Marriage,” *Harvard Law Review* 117 (2004): 2684.

57. Patrick J. Borchers, “The Coming Collision: Romer and State Defense of Marriage Acts,” *Brigham Young University Law Review* (2008): 1638.

58. Lynn D. Wardle, “Non-Recognition of Same-Sex Marriage Judgments Under DOMA and the Constitution,” *Creighton Law Review* 38 (2005): 372.

recognition of same-sex unions, free from any federal constitutional implications that might attend the recognition by one State of the right for homosexual couples to acquire marriage licenses.”⁵⁹

In analyzing the DOMA, many evaluate the constitutionality of the Act and there are two ways in which this process could occur. Examination by the Court may involve state authority by which individual public policies enacted refuse full faith and credit as it relates to same-sex unions in other states, and whether the public policies denying full faith and credit are constitutional.⁶⁰ The Full Faith and Credit Clause states that: “Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.”⁶¹ The issue with the DOMA relying on the foundation of the Full Faith and Credit Clause presents controversy in that the federal government has transferred this power to states, thus relieving the federal government of direct responsibility. The panic surrounding DOMA comes from the “threat” to the institution of marriage, the defining of marriage throughout society, and diminished tradition. In contrast, those of the homosexual community find themselves in a constant attempt to win over the traditional, religious American people who affect the public policy. “Lesbians and gay men find

59. H.R. REP. NO. 104-664.

60. Emily J. Sack, “The Retreat From DOMA: The Public Policy of Same-Sex Marriage and a Theory of Congressional Power Under the Full Faith and Credit Clause,” *Creighton Law Review* 38 (2005): 509.

61. U.S. Constitution, art. 4, sec. 1.

themselves unavoidably placed at the nexus of similar forces intent on capturing national identity, social privilege, or the moral higher ground.”⁶²

Public Policy: Abortion

Introduction

Abortion is a public policy by which divisions on support amongst the American public continues to perpetuate discussion regarding life. Over several decades, the majority opinion on the issue amongst the public has changed depending on the political spectrum ideology. “Data from the General Social Survey imply that abortion politics in the 1990s differ from abortion politics in the 1970s and early 1980s because now people are more likely to align their stand on abortion with their other political views or reconceive their political views to make them consistent with those of others who share their stand on abortion.”⁶³ Many times this stance has to do with religious beliefs and life experiences specific to abortion.

During the 1970s, abortion became a major issue within the arena of politics due to the decision by the United States Supreme Court in *Roe v. Wade*, which caused the public to support political candidates based on their stance regarding the public policy issue.⁶⁴ Public policies as controversial as abortion cause a division amongst most

62. Barry D. Adam, “The Defense of Marriage Act and American Exceptionalism: The ‘Gay Marriage’ Panic In the United States,” *Journal of the History of Sexuality* 12 (2003): 275.

63. Michael Hout, “Abortion Politics in the United States 1972-1994: From Single Issue to Ideology,” *Gender Issues* 17 (1999): 6.

64. *Ibid.*, 3.

societal groups due to cultural differences, specifically beliefs. In the case of abortion, one decision in one precedent case determined the outcome of elections, caused religious debates, and public policy confusion.

Key Cases

Roe v. Wade

In discussing the public policy issue of abortion, questions regarding privacy and choice arise. Although the right to privacy is not mentioned within the United States Constitution specifically, it is implied in the 14th Amendment, which expresses the Liberty Clause and Due Process Clause.⁶⁵ The 14th Amendment has been used in order to defend the right of the woman to make choices in situations surrounding abortion without state or federal interference, and the option of the woman to notify whomever she feels necessary.⁶⁶ In the past, the Federal Government has ruled consistent with the decision in *Roe v. Wade*, which stated that the woman has a right to choose regardless of threatening circumstances surrounding the mother's health or not.⁶⁷ This decision has sparked a sense of division amongst the country because it raises several issues such as state sovereignty, religiosity, morality, whether the Federal Government has the right to instruct a woman on what decisions to make regarding her body, and the basic issue of freedom. In addition, "more than two-thirds of the States have repealed their pre-*Roe v.*

65. U.S. Constitution, amend.XIV.

66. *Ohio v. Akron Center for Reproductive Health* (88-805), 497 U.S. 502 (1990).

67. *Roe v. Wade*, 410 U.S. 113 (1973).

Wade laws or have amended those laws to conform to *Roe v. Wade*, which allows abortion for any reason before viability and for virtually any reason after viability.”⁶⁸

Prior to *Roe v. Wade*, there were several issues that concerned states regarding abortion such as funding, a multitude of illegal procedures, and deaths. At first, abortions were available within specified states, but eventually reached a regional level and then national. Abortions were readily available throughout the United States if the woman had the proper funding available and dependable medical doctors, for the procedures were still illegal.⁶⁹ Prior to 1969, induced abortions were classified between approximately 200,000 and 1.2 million, but the number increased to 1.6 million during the early 70s.⁷⁰ The popularity of abortions increased as availability increased, but the number of deaths associated with the procedure was the most concerning. Political leaders brought attention to the fact that there were unlicensed and untrained physicians conducting the procedures within non-sterilized locations. This concern was raised during the *Roe v. Wade* decision as to the procedure causing harm to the mother.

The *Roe v. Wade* decision by the U.S. Supreme Court had a profound effect on the reformation of policy within states. Primary effects of *Roe v. Wade* are such: Eight states have enforceable abortion prohibition laws still on the books; Thirty-eight states have no law on the books prohibiting abortion before viability; and Seventeen states have

68. Paul Benjamin Linton, J.D., “The Legal Status of Abortion in the States if *Roe v. Wade* is Overruled,” *Issues in Law & Medicine* 23, (November 1, 2007): 4-5.

69. David J. Garrow, “Abortion Before and After *Roe v. Wade*: An Historical Perspective,” *Albany LawReview* 62 (1999): 834.

70. Willard Cates, Jr., David A. Grimes, L. Lynn Hogue, “Topics for Our Times: Justice Blackmun and Legal Abortion –A Besieged Legacy to Women’s Reproductive Health,” *American Journal of Public Health* 85, (September 1995): 1204.

judicial decisions creating a state constitutional right to abortion.⁷¹ Legislation has been defined into three separate categories post-Roe v. Wade: Some states simply have adopted the Supreme Court's language verbatim, prohibiting abortions after "viability" and defining that term, as did the Court, as the point at which the fetus potentially may survive outside of the womb; States have prohibited abortions in cases where there is "reasonable possibility" of viability; and The states defined viability as occurring at specific dates ranging from 20 weeks to 24 weeks of pregnancy.⁷² Following this defined concept of viability, the court was challenged in Hodgson v. Anderson, which also neglected the acknowledgement of viability weeks in Roe. The Court placed emphasis on the fact that there was no evidence to support the defined weeks of viability and thus concluding that:

After reviewing the historical, medical, and legal attitude on abortions, the Supreme Court concluded that as between cases the point of viability will vary, and whether or not the fetus is in fact viable must be left to the medical judgment of the physician. In any event, under present technology, it does not arise prior to 24 weeks. It appears that the Court made its comments on viability to prevent the very thing that has happened here, which is the attempt to set viability by legislative definition.⁷³

Another issue has been the funding of abortions post-Roe and where the funding originates. The challenge has been toward federal funds contributing to abortion procedures, which caused Congress to intervene. Specifically, Congress passed the

71. "The Legal Status of Abortion Laws in the Fifty States and the District of Columbia if Roe v. Wade is Overturned," *Texas Review of Law & Politics* 10, (Spring 2006): 343.

72. M. David Bryant, Jr., J.D., "State Legislation on Abortion after *Roe v. Wade*: Selected Constitutional Issues," *American Journal of Law & Medicine* 2, (Summer 1976): 105.

73. *Ibid.*, 108.

Health Programs Extension Act in 1973 shortly after the decision in *Roe v. Wade* in order to set parameters on abortion procedures. The Act is as follows:

the receipt of any grant, contract, loan, or loan guarantee...by any individual or entity does not authorize any court or any public official...to require—(1) such individual to perform or assist in the performance of any...abortion if his performance or assistance in the performance of such procedure or abortion would be contrary to his religious beliefs or moral convictions; or (2) such entity to make its facilities available for the performance of any...abortion if the performance of...abortion is prohibited by the entity on the basis of religious beliefs or moral convictions...⁷⁴

In addition to the issues of viability and funding, there was the parental consent factor. Parental consent was another method of the states limiting abortions by way of a difficult process or burden. This is almost a method of playing on the emotions of the pregnant female, who happens to be underage. In the case of *State v. Koome*, the Court decided that the constitutional right of minors is equivalent to those of adults in the absence of some special state interest in the regulation or protection of minors or of a “fundamental difference in the nature of the state interaction with juveniles.”⁷⁵ In some states, currently, there are laws requiring a minor to notify a legal guardian of the choice to have an abortion prior to the procedure. This is a great difference from requiring parental consent, but the mere requirement of having to tell a parent about the choice can be traumatizing. Also, if the child does not feel comfortable notifying the parent due to external issues, then the likelihood that the parent will consent to such a procedure is slim.

74. M. David Bryant, Jr., J.D., “State Legislation,” 121.

75. *Ibid.*, 110.

Even following the decision in *Roe*, individual facilities and physicians had the right to refuse to conduct abortions. Therefore, concern arises for the desire of the states to restrict legislation and challenge the Federal Government. Some of the laws imposed by states are blatantly created to limit abortions within the state due to the power issue mentioned previously throughout the discussion. In fact, critical attention must be given to the motive behind the creation of abortion policy.

Planned Parenthood v. Casey

In the case of *Planned Parenthood of Southeast Pennsylvania v. Casey*, the laws during 1988 and 1989 required informed consent and a 24-hour waiting period in order to receive the procedure.⁷⁶ This case created controversy because of the conflict with primarily the consent portion, even in cases of adults and married couples. This caused an unnecessary burden on the female, which since the *Roe* decision in 1973, had not been an issue varying amongst states.⁷⁷ An “undue burden” was defined by the court as a “substantial obstacle in the path of a woman seeking an abortion before the fetus attains viability.”⁷⁸ The requirement of consent directly contradicts the decision in *Roe v. Wade*, but the decision in *Casey* settled the disputes of abortion in several ways. According to Neal Devins, “*Casey* settled the abortion wars in two ways: First, the decision helped create an environment in which the Supreme Court is unlikely either to overturn *Roe* or to return the *Roe* trimester test. Second, the decision helped create an environment in

76. *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833 (1992).

77. Joseph W. Dellapenna, “Abortion Across State Lines,” *Brigham Young University Law Review* (2008): 1642.

78. *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833 (1992).

which state lawmakers—if and when Roe were overturned—would be unlikely to outlaw abortion or pass more stringent restrictions.”⁷⁹

The Supreme Court’s decision in Casey complemented the decision in Roe v. Wade. The informed consent policy and 24 hour waiting period, which allows the physician to provide information/pictures on risks associated with abortion in an attempt to prevent the abortion, impedes the woman’s ability to express choice and privacy. The Court stated that:

It cannot be questioned that psychological well-being is a facet of health. Nor can it be doubted that most women considering an abortion would deem the impact on the fetus relevant, if not dispositive, to the decision. In attempting to ensure that a woman apprehend the full consequences of her decision, the State furthers the legitimate purpose of reducing the risk that a woman may elect an abortion, only to discover later, with devastating psychological consequences, that her decision was not fully informed. If the information the State requires to be made available to the woman is *truthful and not misleading*, the requirement may be permissible.⁸⁰

The *Casey* decision attempts to preserve the dignity of the woman by securing protected rights from government violation or restriction.⁸¹

Stenberg v. Carhart

In *Stenberg v. Carhart*, a physician challenged Nebraska’s partial abortion statute claiming that it presented an “undue burden” on women seeking to get abortions when

⁷⁹ Neal Devins, “How Planned Parenthood v. Casey (Pretty Much) Settled the Abortion Wars,” *Yale Law Journal* 118 (2009) 1322.

⁸⁰ Jeremy A. Blumenthal, “Abortion, Persuasion, and Emotion: Implications of Social Science Research on Emotion for Reading Casey,” *Washington Law Review* 83(2008): 4.

⁸¹ Reva B. Siegal, “Dignity and the Politics of Protection: Abortion Restrictions Under Casey/Carhart,” *Yale Law Journal* 117 (2008): 1701.

the fetus is nonviable and medically necessary.⁸² Nebraska's law on partial-abortion states the following:

Abortion procedure in which the person performing the abortion partially delivers vaginally a living unborn child before killing the un-born child and completing the delivery. For purposes of this subdivision, the term partially delivers vaginally a living unborn child before killing the unborn child means deliberately and intentionally delivering into the vagina a living unborn child, or a substantial portion thereof, for the purposes of performing a procedure that the person performing such procedure knows will kill the unborn child and does kill the unborn child.⁸³

The argument was that the law made the procedure of partial-abortions a crime, but that it violated the 14th Amendment's Due Process Clause.⁸⁴ The Supreme Court found that the law was unconstitutional. The reasons for the decision were: "1) the statute lacked any exception for the preservation of the health of the mother; and 2) the statute was impermissibly vague and could be interpreted to include a ban on the most commonly used second trimester abortions, thereby unduly burdening a woman's right to choose abortion."⁸⁵

Governmental Restrictions

The restrictions placed on women regarding abortion have been inescapably slipping into legislation. Although the Federal Government has dictated abortion policy, states have begun placing limitations on everything regarding abortion in order to discourage and prevent a woman from considering the option. Although abortion is legal,

82. Janeen F. Berkowitz, "Stenberg v. Carhart," 354.

83. Neb. Rev. Stat. § 28-326.

84. U.S. Constitution, amend.XIV.

85. Janeen F. Berkowitz, "Stenberg v. Carhart," 337.

states have found the loopholes to regulate what a woman decides to do with her body. It appears as though the Federal Government does not want the responsibility of defining life, but holds the power of action. In fact, according to Cates et al.:

The Hyde Amendment, which restricted federal funds for abortion, was passed by Congress in 1976 and went into effect in 1977. The year before the implementation of the Hyde Amendment, about 300,000 abortions in the United States were obtained by low-income women through Medicaid. During the following 2 years, the number of federally funded abortions averaged only 3000 per year, or just 1 % of the previous number. The Amendment, therefore, effectively stopped federally funded abortions. However, limiting federal funds was primarily a symbolic exercise. Even today most low-income women manage to obtain legal abortions with other funding sources. Many states continue to finance abortions using state revenues, thus blunting the amendment's impact.⁸⁶

In 2003, another Act was enacted regarding abortion, the Partial Birth Abortion Ban Act. The Partial Birth Abortion Act (PBABA) states the following:

(a) Any physician who, in or affecting interstate or foreign commerce, knowingly performs a partial-birth abortion and thereby kills a human fetus shall be fined under this title or imprisoned not more than 2 years, or both. This subsection does not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself. This subsection takes effect 1 day after the enactment.⁸⁷

This Act was challenged in 2007 in the case *Gonzalez v. Carhart*. The state of Nebraska was once again challenged on restrictions of abortion. In this instance, the challenge was to the enforcement of the federal statute due to its lack of distinction between the common D & E procedure and the 'intact' D & E procedure.⁸⁸ The Court ruled that the Act was not unconstitutional. This Act has remained in place to date, and has restricted

86. Willard Cates, Jr., David A. Grimes, L. Lynn Hogue, "Topics for Our Times," 1205.

87. 18 U.S.C. § 1531 (a) (2003).

88. *Gonzalez v. Carhart*, 550 U.S. 124 (2007).

the use of abortion across states where the threat to the woman's health as well as a viable fetus is at risk.

There are several Acts that have altered the function of the woman's right to choose on the state level, where the threat of the woman losing the right to privacy and abortion are imminent. An example of this type of Act is the South Dakota Women's Health and Human Life Protection Act which stated:

No person may knowingly administer to, prescribe for, or procure for, or sell to any pregnant woman any medicine, drug, or other substance with the specific intent of causing or abetting the termination of the life of an unborn human being. No person may knowingly use or employ any instrument or procedure upon a pregnant woman with the specific intent of causing or abetting the termination of the life of an unborn human being.⁸⁹

The states are consistently challenging this issue on the federal level based on the premise that the life of an unborn "child" is at stake. This Act defines the fetus as an "unborn human being," but this indicates that what is attached to the mother inside of her womb has been defined. The debate about an unborn child's life is highly controversial, but the rights of women are being compromised. The debate stems from the value society places on life, and it is engrained in personal beliefs.

Morality and Ethics

The moral and ethical standpoint of abortion is highly controversial due to several issues like religiosity, the act of doing "good" and the definition of a "good" being, and the dependency portion of an unborn life. The morality portion of the decision to participate in the act of abortion is one that is quite personal to a woman. This type of

89. Eileen McDonagh, "The Next Step After Roe: Using Fundamental Rights, Equal Protection Analysis to Nullify Restrictive State-Level Abortion Legislation," *Emory Law Journal* 56, (2007): 1173.

possible policy is often referred to as Morality Policy. This type of policy has an underlying indication of moral values versus the economic interest which tend to drive every other policy within the United States' capitalist market.⁹⁰ Therefore, the issues of abortion are most commonly scrutinized similarly to homosexuality.

Religious organizations are most often referred to as the instigator when the opposition of abortion is demonstrated. People make personal judgments based on their belief system, which shapes public policy. Research indicates that “politically conservative Americans are more likely to hold the poor themselves responsible for poverty, “thus inferring that “those with traditional beliefs about family and sexuality were more likely to hold pregnant women responsible for their unwanted pregnancies.”⁹¹ In other words, the conservative religious individual believes that if the woman did not want the child, then the woman should not have gotten pregnant. This is a very simplistic mindset but not very realistic. A woman never truly understands another woman's decision in this circumstance until placed in the position of having to “choose.” The Federal Government has never addressed the moral issue of abortion, but that would create an obligation to define morality. This has the potential to be even more controversial because religion would operate in this realm, and is a violation of the 1st Amendment.⁹² There is no way to justify the ban on abortion everywhere within the United States solely based on a morality issue built upon a religious foundation.

90. Christopher Z. Mooney and Richard G. Schuldt, “Does Morality Policy Exist? Testing a Basic Assumption,” *The Policy Studies Journal* 36, (2008): 201.

91. Gail Sahar and Kaori Karasawa, “Is the personal Always Political? A Cross-Cultural Analysis of Abortion Attitudes,” *Basic and Applied Social Psychology* 27, (2005): 286.

92. U.S. Constitution, amend. I.

When abortion is discussed, the questions that arise are “Is this the right thing to do?” or “Would a good woman abort their unborn child?” These questions are addressed during discussion of a possible Morality Policy because most conservatives would state that there is nothing “good” about abortion. According to Aristotle, the notion of good indicates moral virtue, which is the thriving of moral excellence in decision making when pleasure and pain are at stake.⁹³ These are the types of illustrations of how the human mind assesses situations in relation to survival. The Federal Government and state governments have the power to hinder this process in stipulating what choices can be made in the private lives of its citizens through the utilization of spiritual and religious undertones.

Public Policy: Capital Punishment

Introduction

There have been several obstacles in history which have shaped the lifestyles of the public, mindset of the public, and the operation of society. The most controversial policies tend to be the ones that shape mindsets. One of these public policies is capital punishment, otherwise known as the death penalty within the United States. Many key cases have guided public thought as well as the operative nature of the policy.

Key Cases

In the case of *Furman v. Georgia*, an attempted burglary ended in the accidental

93. Aristotle, *The Nicomachean Ethics* (New York: Oxford University Press, 1998), 32.

killing of a resident, and the burglar was sentenced to death.⁹⁴ The Court decided that the death sentence was cruel and unusual as it relates to the crime. *Furman v. Georgia* focused on Georgia and Texas as states that violated the Eighth Amendment. The case was so significant that it caused forty states to retract their capital punishment laws and a total of 629 inmates to be removed from death row status.⁹⁵ The states had to analyze their capital punishment laws in place and declare reasoning for punishment by death. The racial injustices and techniques of the death penalty is what stipulated the cause of declaring it as “cruel and unusual punishment” in 1972.

Gregg v. Georgia stands as the case that reinstated the death penalty throughout the United States.⁹⁶ In this case, a death sentence was issued by the Georgia Supreme Court for robbery and murder. The sentence was challenged on the basis of violation of the 8th and 14th Amendments, and the Court held that the punishment was not ‘cruel and unusual’ in relation to the crime.⁹⁷ Although the Court found that the punishment was accurate for murder, there was a concern regarding the punishment for robbery or rape during the act of murder. In *Coker v. Georgia* (1977), the Court ruled the death sentence for rape unconstitutional, for it was a breach of the Eighth Amendment.⁹⁸ “Five years later, the Court held it unconstitutional to execute someone who ‘neither took a life,

94. *Furman v. Georgia*, 408 U.S. 238 (1972).

95. Elizabeth Hull, “Guilty on All Counts,” *Social Policy* 39 (2010): 12.

96. *Greg v. Georgia*, 428 U.S. 153 (1976).

97. *Greg v. Georgia*, 428 U.S. 153 (1976).

98. *Coker v. Georgia*, 433 U.S. 584 (1977).

attempted to take a life nor, intended to take a life.”⁹⁹ This caused a problem with the sentencing of life without parole. A statement was released regarding this issue in The Sentencing Project:

Life without parole has always been a sentencing option, but the frequency with which this has been used has increased in recent decades. In many instances, this has been a reflection of the use of more punitive sentencing policies in general, but in some cases it also results from the increased use of life without parole as an alternative to the death penalty.¹⁰⁰

The issue was the application of the policy, but also the jurors and judges who are left with the responsibility of handing down such a punishment. The rulings by the Court in precedent cases have altered public thought as well as public policy.

Conflict Amongst Juries

The public opinion on the death penalty matters especially when it concerns jury selection in capital cases. A study was conducted in the state of Georgia where surveys were issued to possible capital case jurors asking their preference in sentencing. Two-thirds of the jurors stated that they would recommend a life sentence if it was guaranteed that the criminal or criminals would serve a mandatory 25 years.¹⁰¹ It is common for emotions to interfere with decision making in determining the application of the death penalty. Jurors have a large amount of responsibility to the public, to themselves, and to the Government in handing down a verdict of guilty and recommendation of the death

99. Daniel Suleiman, “The Capital Punishment Exception: A Case for Constitutionalizing the Substantive Criminal Law,” *Columbia Law Review* 104 (2004): 427.

100. “A Matter of Life and Death: The Effect of Life Without-Parole Statutes on Capital Punishment,” *Harvard Law Review* 119 (2006): 1841-1842.

101. *Ibid.*, 1845.

penalty. In capital cases, the perception of the Supreme Court regarding jurors is that decisions are often made prematurely. Jurors often make their decisions based on personal beliefs, limited comprehension of laws surrounding the case, and perception of the defendant.¹⁰² The *Witherspoon v. Illinois* case in 1968 produced a ruling by the Supreme Court that in capital cases, potential jurors cannot be overlooked due to personal beliefs regarding the death penalty. This was reversed in 1986 in the case of *Lockhart v. McCree* because the judge expressing majority opinion stated that “states can remove all potential jurors whose opposition to the death penalty is so strong that it would prevent or substantially impair the performance of their duties as jurors at the sentencing phase of the trial.”¹⁰³

When comprehension of the legal system is flawed, jurors tend to negate the fact that responsibility of decisions is imminent. It is imperative that responsibility for individual actions is taken. Jurors who are in this predicament of comprehension are more likely to deflect their decision making onto other jurors. Empirical data has suggested that although jurors vote for the death penalty in capital cases, jurors tend to lay blame on the trial judge in order to have peace of mind.¹⁰⁴

102. Julie Schroeder et al., “Mitigating Circumstances in Death penalty Decisions: Using Evidence-Based Research to Inform Social Work Practice in Capital Trials,” *Social Work* 51 (2006): 355.

103. Robert L. Young, “Guilty Until Proven Innocent: Conviction Orientation, Racial Attitudes, and Support for Capital Punishment,” *Deviant Behavior* 25 (2004): 154.

104. Julie Schroeder et al., “Mitigating Circumstances,” 358.

Summary

Within the United States, many people use religion to form opinions about the world, and their response to the world.¹⁰⁵ The tradition of marriage and belief in the institution of marriage began in the United States not only due to Christianity, but also because the founders deliberately placing emphasis on “the symbolic connection between family virtues and civic virtues and believed that traditional marriage was a way to sustain the virtue necessary for the smooth running of the Republic.”¹⁰⁶ Therefore, marriage has been deemed as somewhat of a sacred institution with values between a man and a woman by which protective measures are constantly expressed. “Even more fundamental, though, is that most same-sex couples who seek to marry aspire to participate in, and be officially recognized by society as participating in, an institution defined by a distinct set of values—including fidelity, sexual exclusivity, continuity, and perseverance...over much of the span of a joint lifetime.”¹⁰⁷ The public policies that govern this institution throughout societies dictate the participation of the same-sex couples.

The religious denominations and same-sex advocates have been on opposite sides of the spectrum in supporting same-sex marriage. This is due to the traditional aspect of the institution of marriage previously mentioned. “The political and organizational silencing of dissent is frequently problematic given that many denominations have clear

105. N. Eugene Walls, “Religion and Support,” 112.

106. Frederic J. Bold Jr., “Vows to Collide: The Burgeoning Conflict Between Religious Institutions and Same-Sex Marriage Antidiscrimination Laws,” *University of Pennsylvania Law Review* 158 (2009): 185.

107. Perry Dane, “A Holy Secular Institution,” *Emory Law Journal* 58 (2009): 1183-1184.

doctrinal stances that support congregational and individual dissent based on informed conscience.”¹⁰⁸ This highlights the role of religion throughout societies in relation to same-sex marriage and the conflict surrounding the policy. Laws are often utilized to fortify those convictions throughout societies that have to do with moral and ethical concerns, even though it may involve an individual’s personal life.¹⁰⁹ Specifically according to Patrick Devlin, “The law . . . does not discharge its function by protecting the individual from injury, annoyance, corruption, and exploitation; the law must protect also the institutions and the community of ideas, political and moral, without which people cannot live together.”¹¹⁰ Therefore, the same-sex marriage policy discussion in relation to religion focuses on doctrine, belief, and defining the institution of marriage.

In identifying the foundation of the abortion debate, the evaluation of the relationship between political environment and religion and social differences and religion must be reviewed.¹¹¹ It is no coincidence that those of the Christian faith have been more vocal in opposing abortion within the United States than any other religious faith. According to Hoffman and Mills:

The increasing opposition among Evangelicals to both elective and traumatic abortion suggests that their subculture has entrenched or increased its distinctiveness about at least one issue that has powerful moral, political, and social underpinnings. The moral complexities of the abortion issue and its

108. N. Eugene Walls, “Religion and Support,” 121.

109. Raja Halwani et al., “What is Gay and Lesbian Philosophy?” *Metaphilosophy* 39 (2008): 443.

110. *Ibid.*, 443.

111. Perry Chang, “Abortion, Religious Conflict, and Political Culture,” *Journal for the Scientific Study of Religion* 44 (2005): 2.

symbolic value as a marker for societal degradation have led to an increasing division between Evangelicals and other religious adherents.¹¹²

The decisions of key cases surrounding abortion policy has been paramount to the shaping of societal opinions regarding abortion. In fact in one court opinion on abortion policy, the stance focused on the moral ramifications of the action in reference to the belief system of the woman. The opinion was as follows: “Their suffering is too intimate and personal for the state to insist, without more, upon its own vision of the woman’s role, however dominant that vision has been in the course of our history and culture. The destiny of the woman must be shaped to a large extent on her own conception of her spiritual imperatives and her place in society.”¹¹³

When support of the death penalty is analyzed, there are basically four ways in which people can be categorized: “the death penalty is never an appropriate punishment for the crime of first-degree murder; opposed to the death penalty, but would consider it under certain circumstances for the crime of first-degree murder; favor the death penalty, but would not consider it under circumstances for the crime of first-degree murder; and the death penalty is the only appropriate punishment for the crime of first-degree murder.”¹¹⁴

It has been stated that opinions of capital punishment are related to personality traits and political values. It is also assumed that people who are for the death penalty are

112. John P. Hoffman and Sherrie Mills, “Attitudes Toward Abortion Among Religious Traditions in the United States: Change or Continuity?,” *Sociology of Religion* 66 (2005): 180.

113. Janeen F. Berkowitz, “Stenberg v. Carhart,” 382.

114. Brooke Butler and Gary Moran, “The Impact of Death Qualification, Belief in a Just World, Legal Authoritarianism, and Locus of Control on Venire persons’ Evaluations of Aggravating and Mitigating Circumstances in Capital Trials,” *Behavioral Sciences & the Law* 25 (2007): 62-63.

more likely to support the death penalty and maybe select a more profound style of execution. Another option would be to not support any type of early release and to favour longer prison sentences in capital cases.¹¹⁵ In a study conducted by Soss, Langbein and Metelko, public support was discussed and quoted as fluctuating over the periods of time:

In 1963, 61% of Americans favoured the death penalty. This figure declined to a low of 47% in 1966, but then rose through the 1970s to reach a stable 70% to 75% level in the 1980s. In 1994, public support for capital punishment peaked at around 80%. In more recent years, amid concern over racial disparities and erroneous convictions, support has once again begun to drop. At present, however, support for the death penalty remains a majority position, with favorable responses standing at around 68%.¹¹⁶

Most of the supporters for the death penalty do not consider personal beliefs as far as religion is concerned in dictating support or opposition. “Secularists take this view as ruling out the legitimacy of religion influencing civil affairs through the actions of private individuals acting upon their private religious convictions, and religion is reduced to a private matter for individuals, families, or private groups and of no relevance for issues that govern society as a whole.”¹¹⁷

Many who oppose the death penalty cite religious reasons for the basis of the belief. It is a belief that life is invaluable, and the application of the death penalty extinguishes the value. In the opinion portion of *Furman*, Justice Blackman wrote:

115. Stuart J. McKelvie, “Attitude Toward Capital Punishment is Related to Capital and Non-Capital Sentencing,” *North American Journal of Psychology* 8 (2006): 569.

116. Joe Soss et al., “Why Do White Americans Support the Death Penalty?” *Journal of Politics* 65 (2003): 369.

117. Richard H. Jones, “Concerning the Secularists,” 343.

Cases such as these provide for me an excruciating agony of the spirit. I yield to no one in the depth of my distaste, antipathy, and, indeed, abhorrence, for the death penalty, with all its aspects of physical distress and fear and of moral judgment exercised by finite minds. That distaste is buttressed by a belief that capital punishment serves no useful purpose that can be demonstrated. For me, it violates childhood's training and life's experiences, and is not compatible with the philosophical convictions I have been able to develop. It is antagonistic to any sense of "reverence for life." Were I a legislator, I would vote against the death penalty...But it is there---on the Legislative Branch...., and secondarily, on the Executive Branch...where the authority and responsibility for this kind of action lies. The authority should not be taken over by the judiciary in the modern guise of an Eighth Amendment issue.¹¹⁸

Many religions view the taking of life as the most heinous crime in society, and therefore, view the death penalty in the same light.

The separation between church and state is impossible to opponents of the death penalty, abortion, and same-sex marriage, for religion is viewed as a way of life. "One consequence of this is that there is no absolute dichotomy between religion and politics—politics is open to the non-religious of course, and religion encompasses more than politics, but concern with social and political issues is one dimension of a religious way of life."¹¹⁹ Those who oppose the death penalty, abortion, and same-sex marriage feel compelled to voice their opposition based on religious views because policies such as those that concern "life" are what cause a blurred line between church and state. Matters of life and death are not the only implications of religion, or those issues that are considered private matters deemed by the state, but those matters that affect the lives of individuals throughout society are a key facet of religion.¹²⁰

118. James S. Liebman, "Slow Dancing with Death: The Supreme Court and Capital Punishment, 1963-2006." *Columbia Law Review* 107 (2007): 24.

119. Richard H. Jones, "Concerning the Secularists," 344.

120. *Ibid.*, 344.

The historical review of the specified public policy issues as focus areas in this literature review support the controversial arguments as it pertains to the moral duty of the Catholic Church involvement in public policy processes. The highlighted court cases support the timeline of evolution of the public policies on abortion, same-sex marriage, and the death penalty. Therefore, an overview of the cases is provided in this literature review, because the cases are pertinent to the shaping of public policy. The next chapter will be an overview of the Catholic Church and Catholic Social Teaching, which provides a foundation for this study on the influence of the Catholic Church in public policy processes.

CHAPTER III

THE CATHOLIC CHURCH

The Catholic Church in the United States

History

The Catholic Church has been a highly organized institution within the realm of politics throughout the United States. The Church has been formed surrounding key elements such as: 1. Aside from the previously dominated Protestant Church, the Catholic Church began as a minority religion within the United States; 2. The Catholic Church was treated equally to the previously dominant Protestant Church according to the Constitution allowing a free market of religion; 3. The Catholic Church was originated in the United States by a large group of immigrants from European countries; and 4. There has always been a conflict between the Catholic Church, a stem of the Roman Catholic Church, and American tradition.¹ These key elements lie at the foundation of the evolution of the Catholic Church in the United States.

The Catholic Church in the United States originated with many immigrants from European countries such as Germany, Ireland, Poland and Italy. These immigrants faced numerous battles upon settling in the United States as Catholics due to language barriers and the “Protestant America.” According to Jose Casanova:

1. Jose Casanova, “Roman and catholic and American: The Transformation of Catholicism in the United States,” *International Journal of Politics, Culture and Society* 6 (1992): 75.

To keep the faith of the immigrants, protecting them from Protestant America, while helping them take their rightful place as a “separate but equal” ethnic and religious groups in America society, became the central task of the immigrant church. The repeated controversies surrounding public and parochial schools became the most evident signs of the different visions which Protestant and Catholic had of America and of the role which religion was to occupy in public life. The Protestant clergy active in the common school movement viewed the public school as a vehicle to Americanize, that is, Christianize religiously indifferent and immigrant Catholic alike, by teaching them personal morality and self-discipline, civic virtue and true Christianity.²

Immigration was a very transparent process, but very complex in the sense that the United States was new territory with a different traditional foundation. The Catholic conflict grew due to the aggressive nature of the Protestant Church to impose Christian principles within school systems and every other aspect of society. The Catholic Church revolted by creating its own schools and voicing concerns of the violation of religious freedom guaranteed by the Constitution. The Archbishop of New York, John England, responded to such conflict stating:

Now my lot was cast in the great metropolis of the whole country. My people were composed of representatives from all nations. They came under Episcopal government in a new country, and in circumstances such as they had not been accustomed to in their own. It was necessary that they should be brought to coalesce as one Catholic flock. They were surrounded by many inducements to diverge from the unity of the Church, both in profession and in practice.³

The vast number of members increased dramatically throughout many of the early years of the Catholic Church in the United States. From the period of the 1830s to 1980, the Catholic population grew to approximately 50 million people with the largest increase

2. Jose Casanova, “Roman and catholic and American,” 84.

3. Andrew M. Greeley, *The Denominational Society* (Illinois: Scott, Foresman and Company, 1972), 187.

occurring during the early 1900s.⁴ This increase placed the Catholic Church as a significant force within American society, even out-growing the Protestant Church. This not only presented a dominant picture, but it made the Catholic Church more influential in relation to governmental practices.

In the year 1782, John Carroll along with other clergyman called a meeting in order to bring order to the Catholic Church within the United States in the form of leadership. At the time, there was no bishop in place, for the Pope had destroyed the foundation of the clergy due to the dismantling of the Jesuit Order.⁵ Most of the clergy existed in the Philadelphia area. The relationship of the clergyman required order in the form of leadership in line with the Roman Catholic Church. Following the meetings of the clergy and the blessing of a bishop in England, the Church in Rome was petitioned as to the consecration of bishops in the United States.⁶ Following the petition, the Roman Catholic Church clergy voted John Carroll as the first American Catholic bishop. John Carroll resided in Baltimore and shortly after his election, he appointed two auxiliary bishops as well. This act has turned into a tradition within the American Catholic Church, as demonstrated in hundreds of United States dioceses.

In 1917, the legacy of John Carroll formed the National Catholic War Council. This Council consisted of the bishops as well as personnel to aid in supporting various initiatives associated with religious support for the military active in World War I. Through directives from Pope Benedict XV, the focus of the leadership was on social

4. Jose Casanova, "Roman and catholic and American," 76.

5. Ibid., 92.

6. Ibid., 95.

welfare. In 1919, the central office for the staff was founded in Washington, DC. Due to the office location in Washington, DC, lobbying was simplified for the Catholic Church representatives and leadership on foreign and domestic public policies.⁷ Eventually, the National Catholic War Council changed its name to National Catholic War Conference due to a desire to distinguish itself from law-making bodies. After a few decades, the National Conference of Catholic Bishops and United States Catholic Conference were created in 1966. One tended to church affairs and solely comprised bishops, while the other tended to societal issues. In 2001, the two institutions combined and created the United States Conference of Catholic Bishops.⁸

Defining the Catholic Church

The Catholic Church has taken purposeful steps in defining the church institution. Defining the institution has proven difficult throughout Catholic Church history due to the guarded nature of the Catholic Church, scandal within the Catholic Church, and the societal challenge to the Catholic Church. The guarded nature of the Catholic Church dates back to the well kept traditions and protective face of leadership, specifically Popes. Scandal such as the homosexual behaviors of priests throughout the Catholic Church in relation to young boys within the institution has also played a major role in defining the institution. Societal challenges refers to the various religious denominations co-existing

7. John Caiazza, "American Conservatism and Catholic Church," *Modern Age* 52 (2010): 16.

8. United States Conference of Catholic Bishops, "Brief History," available from <http://www.usccb.org/whoweare.shtml>; Internet: accessed 17 November 2010.

within American societies that may/may not seek to devalue, demean, or disprove the doctrine by which the Catholic Church functions.

It is important to define the Catholic Church institution, because it provides a foundation for church growth and for others unfamiliar with the Catholic Church. The definition allows for various concepts to be incorporated in order to advance the principles of the Catholic Church as an institution. In order to arrive at a point of definition, the Catholic Church must identify a specific angle of public theology.

According to Duncan Forrester,

Public theology is a theology, talk about God, which claims to point to publicly accessible truth, to contribute to public discussion by witnessing to a truth which is relevant to what is going on in the world and to the pressing issues facing people and societies today...Indeed, an important part of its task is to identify and address the deep underlying issues that are often too painful and awkward for politicians and others to address in public debate, and to identify the coming agenda, the issues that people will be wrestling with in a few months or years. It takes the public square and what goes on there seriously, but it tries to articulate in the public square its convictions about truth and goodness. It offers convictions, challenges and insights derived from the tradition of which it is a steward, rather than seeking to articulate a consensus or reiterate what everyone is saying anyway. Public theology is thus confessional and evangelical. It has a gospel to share, good news to proclaim. Public theology attends to the Bible and the tradition of faith at the same time as it attempts to discern the signs of the times and understand what is going on in the light of the gospel.⁹

Once the Catholic Church defined its purpose as an established institution, a strategy of gospel dissemination took place within the United States. This strategy involved the explanation of the doctrine through social teachings within societies. A strategy can be identified as an ordered group of decisions aimed at accomplishing a common goal amongst the members of an institution. Some indicate that a strategy is

9. Edward Foley, "Worship as Public Theology," *International Journal of Practical Theology* 8 (2004): 2.

merely a pattern of decisions.¹⁰ The Catholic Church has demonstrated and clearly stated its strategy throughout its inception, and continues to do so within the United States through social teachings via leadership (i.e. bishops, priests, and popes). This is a method that leadership, within the church, continues to use in order to influence society.

Within the context of identity, the Catholic Church has struggled with a balance between adhering to the traditions of Rome and modern- America incorporation. According to Simmel, the convergence of various groups in society provides for the emergence of identities through the complexities of relations.¹¹ In doing so, a middle-road path of function allowed for acknowledgement and slight controversy regarding the meaning of U.S. Catholic Church establishment. According to John Coleman,

American Catholics achieved middle-class respectability at a time when their own distinctive identity was called into question and without having any clear program that might either challenge or at least complement the ethos and institutions of the wider American society. Most of their leaders and intellectuals thereupon proceeded to disregard or jettison much of historic Catholic tradition and sensibilities upon which such a program might have been based. A people prospers only when it lives out of richly textured communal symbols and achieves its own unique sense of history, heroes and collective story.¹²

The U.S. Catholic Church has maintained its commitment to ideological standards within social structures. The social structures within the United States have allowed the Catholic Church to remain vocal in relation to governmental policies. Such policies have highlighted the traditions of Rome while sustaining an American identity.

10. Wade R. Rose and David Cray, "Public-Sector Strategy Formulation," *Canadian Public Administration* 53 (2010): 455.

11. Gene Burns, "Commitments and Non-Commitments: The Social Radicalism of U.S. Catholic Bishops," *Theory and Society* 21(1992): 703.

12. Fayette Breaux Veverka, "Re-Imagining Catholic Identity: Toward an Analogical Paradigm of Religious Education," *Religious Education* 88 (1993): 241-242.

The traditions that are focused upon by the Catholic Church consist of those concerning human life and dignity. Therefore, that which contradicts the traditions or doctrine places an obligation of disagreement upon the Catholic Church. This is still functional within the concept of American identity due to the 1st Amendment. The Catholic Church also functions within its established identity through the practice of its social teachings.

The social teachings practice of the Catholic Church community, in essence, is religious education. “Education is one of the primary ways in which a community nurtures and sustains its particular identity, values, and ethos from generation to generation.”¹³ The changes within society have caused alterations in traditional stances of the Catholic Church. The modernity of American society has birthed a movement of new-aged Catholic Social Teachings and these have changed slightly as a result of changes within society. This is very comparable to the United States Constitution in that the document is not stagnant. In considering this concept, the Catholic Church has evolved not only to preserve tradition but also to maintain a sense of unity.

A method by which the United States Catholic Church expresses unity is through communications from the body of leadership, otherwise known as the USCCB. The bishops frequently issue statements expressing the viewpoints of the Catholic Church, thus representing a unified front. The unity factor derives from a strategy and identity within the organization. “To believe in Christ means to desire unity; to desire unity means to desire the Church; to desire the Church means to desire the communion of grace

13. Fayette Breaux Veverka, “Re-Imagining Catholic Identity,” 241.

which corresponds to the Father's plan from all eternity.”¹⁴ The Catholic Church has defined and maintained such things through its social teachings, and the bishops often express and convey this vision of unity.

Messages communicated by bishops of the United States Catholic Church have been carefully organized in a manner so that whatever is made public coincides with Catholic social teachings. This eliminates confusion amongst those who are not affiliated with the Catholic Church, promotes unity, and maintains organization. This is imperative for the external population because of the desire to influence and spread Catholic social teachings throughout societies. There is a social obligation that the Catholic Church adopted in addressing issues within communities directly inhibiting the livelihoods of people. Therefore, social teachings are viewed as a method to improve the quality of life and provides an allowance of influence over public policy.

Catholic Social Teaching

Catholic Social Teaching is a concept by which Catholics within the institution have delegated a method by which knowledge of the doctrine is spread amongst the public. The degree to which the doctrine is spread, and the content thereof, weighs heavily on the ‘mobilization’ of the public and the effects on education on public policy.¹⁵

14. Richard John Neuhaus, “The New Catechism and Christian Unity,” *Theology Today* 53(1996): 176.

15. Mark D. Brewer et al., “Assessing Conventional Wisdom about Religion and Politics: A Preliminary View from the Pews,” *Journal for the Scientific Study of Religion* 42 (2003): 125.

Catholic Social Teaching consists of four major areas of concentration and they are: the Common Good, Subsidiarity, Solidarity, and Human Dignity. Human Dignity has remained at the forefront of the Catholic Church's agenda in reference to political involvement.¹⁶ Under each of the four major areas lie lessons key to Catholic Social Teaching, and they are:

1. **Link of religious and social dimensions of life.** The social—the human construction of the world—is not secular in the sense of being outside of God's plan, but is intimately involved with the dynamic of the reign of God.
2. **Dignity of the human person.** Made in the image of God, women and men have a preeminent place in the social order.
3. **Political and economic rights.** All human persons enjoy inalienable rights, which are political-legal and socio-economic.
4. **Option for the poor.** A preferential love should be shown to the poor, whose needs and rights are given special attention in God's eyes.
5. **Link of love and justice.** Love of neighbor is an absolute demand for justice, because charity must manifest itself in actions and structures which respect human dignity, protect human rights, and facilitate human development.
6. **Promotion of the common good.** The common good is the sum total of all those conditions of social living—economic, political, cultural—which make it possible for women and men readily and fully to achieve the perfection of their humanity.
7. **Subsidiarity.** Responsibilities and decisions should be attended to as close as possible at the level of individual initiative in local communities and institutions.
8. **Political participation.** Democratic participation in decision making is the best way to respect the dignity and liberty of people.
9. **Economic justice.** The economy is for the people and the resources of the earth are to be shared equitably by all.
10. **Stewardship.** All property has a social mortgage.
11. **Solidarity.** We belong to one human family.
12. **Promotion of peace.** Peace is the fruit of justice and it's dependent upon right order among humans and among nations.
13. **Work.** Work can and must serve an individual's humanity and dignity.
14. **Liberation.** Liberation from oppressive social, political, and economic situations and structures is an important part of the church's activity.¹⁷

16. Patrick A. Jones et al., "A Model of catholic Social Teaching: Assessing Policy Proposals," *The Catholic Social Science Review* 15 (2010): 285.

17. Peter J. Henriot et al., *Catholic Social Teaching: Our Best Kept Secret* (New York: Orbis Books, 1992), 22-24.

These lessons have been utilized by Popes in relation to Catholic Social Teaching during their leadership. Leo XIII authored the encyclical *Rerum Novarum*, which set the baseline for Catholic Social Teaching. Due to the Catholic Church's increased challenge by other religious denominations, it was necessary for an established rubric in order to address economic, political, and social situations.¹⁸ Pius XI authored the encyclical *Ubi Arcano Dei* and placed emphasis on the family and social aspect of life. He conveyed that Christian principles must be infused in every aspect of daily life in order to "revive Catholic family and social life."¹⁹ Pius XII authored *Summi Pontificatus* and *Miranda Prorsus*, and both focused on peace and human dignity. In these works, he did not use many empirical sources; rather he only referenced Thomas Aquinas and Augustine.²⁰ These are just a few of the expressed philosophical teachings of the Catholic Church by leadership.

In reference to Catholic Social Teaching, major emphasis is placed on the social portion of the teaching, for it is meant to address those circumstances facing society in relation to justice. Social justice can be defined as the "order God has designed for the world and the world to come, an order ultimately directed to communion of persons."²¹ Social justice is a concept to promote fair treatment and preserve human dignity among

18. Stanislaw Pyszka, "The Evolution of Catholic Social Teaching in the Years 1891-2002," *Forum Philosophicum* 10 (2005): 129.

19. Stanislaw Pyszka, "The Evolution," 131.

20. *Ibid.*, 131.

21. Dionisia B. Roman et al., "Theological Constants of Justice in Catholic Social Teaching," *Philippiniana Sacra XLIII* (2008): 95.

all people. The overall concept of Catholic Social Teaching is to promote justice and the act of justice.²² The concept of justice from *Quadragesimo Anno* states the following:

Justice alone can, if fully observed, remove the causes of social conflict but can never bring about union of minds and hearts. Indeed all the institutions for the establishment of peace and the promotion of mutual help among men, however perfect these may seem, have the principal foundation of their stability in the mutual bond of minds and hearts whereby the members are united with one another...And so, only then will true cooperation be possible for a single common good when the constituent parts of society deeply feel themselves members of one great family and children of the same heavenly father; nay, that they are one body in Christ, but severally members of another.²³

The participation of the Catholic Church in public policy processes through the use of Catholic Social Teaching is all designed to promote common good throughout society. The concept of social justice is paramount to the common good. The three virtues that fall within this realm are compassion, solidarity and hospitality.²⁴ These are not only security measures but expressions of love, which a majority of encyclicals contain. Justice requires love to maintain peace in order to guarantee cohesiveness with respect to the common good, but love along with justice is not a given.²⁵ Therefore, the Catholic Church believes that it is imperative that Catholic Social Teaching remains a constant to maintain involvement in public policy processes.

22. Dionisia B. Roman et al., "Theological Constants," 85.

23. *Ibid.*, 98.

24. Christopher P. Vogt, "Fostering a Catholic," 400.

25. Dionisia B. Roman et al., "Theological Constants," 98.

Summary

Chapter three presented an overview of the Catholic Church within the United States. Specifically, the history, social teachings and definition of the United States Catholic Church was discussed. This discussion was essential to this study, because it provides a foundation for the involvement of the Catholic Church in United States public policy processes. An understanding of the history provides for comprehension of the current and future of the Catholic Church influence. The discussion of Catholic social teachings provides for an understanding of the motives for involvement in United States public policy processes. The discussion of the defining of the Catholic Church in the United States highlights its identity, unity, and strategy. Overall, the discussion in this chapter lays a foundation for the analysis of the Catholic Church influence on public policy in Chapter four.

CHAPTER IV

METHODOLOGY, ANALYSES, AND RESULTS

This study purposes to contribute to the literature on separation of church and state, specifically examining the influence of the Catholic Church on public policy in the United States. The study facilitates discussion regarding the leadership of the Catholic Church and its role in public policy processes. This study also aims to highlight leadership roles in public policy and identify the issues surrounding such activities. This study explores the knowledge of leadership regarding separation of church and state, their influence and participation in public policy processes, and the Catholic Church's stance on more controversial public policies within the United States, particularly same-sex marriage, abortion and the death penalty.

This chapter provides a review of the methodology used to conduct this study, analysis of original documents, and the results of survey data. A descriptive analysis of the survey data includes demographic information, as well as subject-matter data necessary for this study. The survey data addresses one of the primary research questions associated with this study: "In what ways do Catholic bishops influence public policy in the U.S.?" The analyses of the original documents are those issued by Catholic Church leadership. The leadership consists of popes and bishops. These documents are utilized in

order to address the influence factor and the role of the Catholic Church in public policy processes. The analyses of the original documents addresses two of the three research questions associated with this study: “In what ways is the common theme, ‘separation of church and state,’ diminishing in relation to public policy?” and “How does the Catholic Church define its role in public policy processes?” Following a brief overview of the methodology, the analyses and interpretation of the original documents and the results of the survey data are presented. This chapter concludes with a summary of the relevance of the methodology, analysis and findings of this study.

Overview of Methodology

The methodology of this study consisted of the usage of two techniques, a survey and original document analysis. These techniques were chosen because the measurements of this study are the influence and extent of participation in public policy processes by Catholic Church leadership within the United States. These techniques also address the research questions and the theories used to support the results of this study. This section will provide a summary of the survey instrument and the various original documents used in this study.

Original Documents

Original documents were selected as a technique for the methodology section of this study because of the theories used to explain the motives of the Catholic Church in public policy processes and to answer the research questions. The original documents were analyzed in order to answer two of the three research questions geared towards

separation of church and state and the defined role of the Catholic Church in public policy. In order to complete the proper analysis in relation to the research questions, four documents were selected. Three of the four documents were used to respond to the research question regarding separation of church and state, while the other was used to respond to the research question regarding the role of the Catholic Church. The three documents used to respond to the research question concerning the 'separation of church and state' were: 1) A Pastoral Letter of the United States Conference of Catholic Bishops ; 2) An Encyclical Letter written by Pope John Paul II- "Evangelium Vitae;" and 3) A Statement of the United States Conference of Catholic Bishops. These three documents were selected due to the nature of the documents containing the three key public policies selected for this study as analysis targets: same-sex marriage, death penalty, and abortion. The fourth document used in response to the research question concerning the defined role of the Catholic Church in public policy is titled "Forming Consciences for Faithful Citizenship: A Call to Political Responsibility from the Catholic Bishops of the United States."

Survey

The purpose of the survey (Appendix B) used in this study was to provide answers to the research question regarding the influence of Catholic bishops in the United States, and to highlight the viewpoint of Catholic bishops on the 'separation of church and state.' The survey instrument used in this study consisted of ten questions: four demographic, five subject-specific questions, and one question allowing participants to provide additional information regarding the survey. The subject-specific questions

consisted of the meaning and relevance of ‘separation of church and state’ in the United States, and bishops’ involvement in public policy processes. The survey was administered to members of the United States Conference of Catholic Bishops, specifically those bishops presiding over a diocese or exercising leadership within a diocese. The determinant for this subject body was the organizational structure, the access to the leadership, and the role of bishops in the Catholic Church. The survey was administered to 174 bishops throughout the five regions of the United States: Northeast, Southeast, Midwest, Southwest, and West. The method of administration was via email for the initial stage. Those who did not respond to the initial emailed cover letter (Appendix A) and survey were contacted two weeks later via phone as follow-up communication. Approximately four weeks were allotted for responses to the survey from the individual bishops. Of the 174 surveys emailed to bishops throughout the United States, 66 bishops responded to the initial inquiry. Of the 66 bishops who responded to the survey, 24 refused to participate with stated reasons and 42 completed the survey.

Analyses and Interpretation of Original Documents

Marriage: Love and Life in the Divine Plan

A Pastoral Letter of the United States Conference of Catholic Bishops

Among the many blessings that God has showered upon us in Christ is the blessing of marriage, a gift bestowed by the Creator from the creation of the human race. His hand has inscribed the vocation to marriage in the very nature of man and woman.¹

1. United States Conference of Catholic Bishops, *Marriage: Love and life in the Divine Plan* (Washington, DC: USCCB, 2009), 2.

In this section, the blessing of marriage and its nature are discussed. This blessing is indicated as the gift from God to the human race and the nature being man and woman. From this passage, it can be assumed that Catholic leadership is stating that marriage was created for man and woman.

While marriage is a special blessing for Christians because of the grace of Christ, marriage is also a natural blessing and gift for everyone in all times and cultures. It is a source of blessing to the couple, to their families, and to society and includes the wondrous gift of co-creating human life. Indeed, as Pope John Paul II never tired of reminding us, the future of humanity depends on marriage and the family. It is just such a conviction that has led us, the Catholic bishops of the United States, to write this pastoral letter.²

In this section, the USCCB is stating that marriage is a ‘special blessing’ to the body of Christians due to the death and resurrection of Christ. Only following this statement, the USCCB indicates that marriage is a ‘natural blessing’ to everyone. These statements are unclear due to the lack of definition or distinction between a ‘special blessing’ and ‘natural blessing’. Therefore, there is no clear understanding of the difference in the blessing for Christians vs. non-Christians. The notion of creation is also acknowledged in this passage as a gift within the blessing. The USCCB also states that these nuances are similarly highlighted by Pope John Paul II in stating that the human race depends on marriage. This dependence stems from the belief in the Catholic Church that children are to be created within the confines of marriage.

The task of proclamation to which the Holy Father refers is one that we bishops exercise today as teachers and pastors, specifically in this pastoral letter. We address the pastoral letter first and foremost to the Catholic faithful in the United States. We call upon them to stand against all attacks on marriage and to stand up for the meaning, dignity, and sanctity of marriage and the family. In a spirit of witness and service we also offer our message to all men and women in the hope

2. United States Conference of Catholic Bishops, *Marriage*, 3.

of inspiring them to embrace this teaching. We intend this pastoral letter to be a theological and doctrinal foundation.³

This section discusses the reason for the entire statement by the USCCB. It discusses the necessity of the bishops to act as leaders in a profound matter by teaching others about the doctrine. The Catholic leadership indicates that this letter is for Catholics of the United States who practice the declarations of the Holy Father. The Catholic bishops also point out that the letter requests the dedication of Catholics in standing up for the principles set forth in biblical doctrine. In the statement by the USCCB regarding the offer this letter to all men and women, the objective is to attract those men and women who are not practicing Catholics and for them to incorporate such practices/beliefs into life daily.

Marriage is a lifelong partnership of the whole of life, of mutual and exclusive fidelity, established by mutual consent between a man and a woman, and ordered towards the good of the spouses and the procreation of offspring. As the Second Vatican Council reminds us, marriage is not a purely human institution: the intimate partnership of life and the love which constitutes the married state has been established by the creator and endowed by him with its own proper laws. . . .For God himself is the author of marriage. Moreover, God has endowed marriage with certain essential attributes, without which marriage cannot exist as he intends.⁴

In this section, marriage is discussed as between man and woman in three separate aspects: faithfulness, life-long, and pro-creation. The aspect of faithfulness gives light to the dedication from spouse to spouse. It plants a seed of forsaking all others outside of the institution in order to maintain the intimate nature. The life-long concept derives from the Catholic belief, based on biblical doctrine, that one is never disconnected from their

3. United States Conference of Catholic Bishops, *Marriage*, 5.

4. Ibid., 7.

primary spouse. Therefore, any other circumstances of ‘marriage’ following a divorce are not recognized by the Catholic Church. Procreation is another aspect highlighted in this passage as a part of marriage ordained by God, because of the importance of the continuance of the human race. God only gives the blessing of procreation within the confines of marriage, according to the Catholic Church based on biblical doctrine. The institution of marriage is described as being the creation of the creator—God. Thus, the USCCB is highlighting the fact that the institution is divine. Being classified as divine, the institution of marriage indicates that the union is of God, and there are specific parameters associated with the institution. One of these parameters is procreation, which is only able to function between a man and woman. Therefore, any type of union incongruent with this type of institution does not operate according to God’s will.

The Church has taught through the ages that marriage is an exclusive relationship between one man and one woman. This union, once validly entered and consummated, gives rise to a bond that cannot be dissolved by the will of the spouses. Marriage thus created is a faithful, privileged sphere of intimacy between the spouses that lasts until death.⁵

In this section, the USCCB explains the lessons of the Catholic Church throughout history, specifically in Catholic Social Teachings. It states that the Catholic Church has highlighted the definition of marriage between man and woman, and has never indicated otherwise. This passage also gives light to the subject of divorce. It states that the spouses do not have the power to designate the termination of marriage. This is due to the fact that the union is granted by God, and therefore God indicates the determinants for the dissolution of marriage. This is essential to those marriages that have been consummated. Although emphasis is placed on the union and dissolve of marriage, the part that is

5. United States Conference of Catholic Bishops, *Marriage*, 7.

unclear is the concept of ‘valid.’ The USCCB, within this section, indicates that valid entry into the marriage plants a sacred bond, but there is no explanation provided of the valid method of entry. In this section, the concept of faithful and privilege are also discussed as it pertains to marriage. The faithful sphere of intimacy indicated above is the commitment between the spouses until death. This means that faithfulness extends until death despite any desires to dissolve the marriage or separate as spouses, according to the Catholic Church. The privilege portion of intimacy indicates that marriage is not a right, but it is a blessing given by God. Therefore, marriage should be carefully cherished and viewed as an honor.

Conjugal love, the love proper to marriage, is present in the commitment to the complete and total gift of self between husband and wife. Conjugal love establishes a unique communion of persons through the relationship of mutual self-giving and receiving between husband and wife, a relationship by which —a man leaves his father and mother and clings to his wife, and the two of them become one body [flesh] (Gn. 2:24).⁶

In this section, the USCCB states the definition of conjugal love as it relates to marriage. Emphasis is placed on what is considered proper within the confines of marriage. It is stated that the only proper love in a marriage is that which is between husband and wife, indicating that marriage is only between man and woman. Also, the section above describes that any other love is improper within the confines of marriage. The USCCB signifies that conjugal love is the only proper love due to biblical scripture. Scripture discusses that in marriage, that man and wife become one flesh. This signifies that Catholic leadership references scripture as it pertains to the subject (persons) in marriage and the proper way to love. There is also discussion of the consequences of conjugal

6. United States Conference of Catholic Bishops, *Marriage*, 9.

love, which are self-giving and receiving as indicated above. This self-giving and receiving has to do with sacrifice of self for unity, which is the ‘unique communion’ between husband and wife.

The two creation stories in the book of Genesis communicate two important truths about the identity of man and woman and the relationship between them. In the first account, God creates both male and female at the same time and in the divine image. This act completes creation, and God judges it to be “very good” (Gn1:31). In this way, Sacred Scripture affirms the fundamental equality and dignity of man and woman as persons created in God’s image.

The second creation account emphasizes that both sexes are necessary for God’s plan. Having created Adam, God says “It is not good for the man to be alone” (Gn. 2:18). So God creates a helpmate who is suitable for him and matches him. Helpmate (*ezer*) is a word reserved in the Bible not for inferiors but most often for God himself, who is Israel’s helper. Indeed, after God creates all of the animals and brings them to Adam to name, it becomes clear that none of them is the suitable partner for the man (Gn. 2:20).⁷

This section discusses the creation of man and woman as it relates to marriage. The USCCB states that this begins within the book of Genesis in the Bible. In this book, God creates man and woman in the image of himself, otherwise known as divine. Therefore, it is important to signify that the USCCB has stated that man and woman are equal within the confines of God’s creation. Although this section of the letter states that ‘God creates both male and female at the same time,’ this is not stated in the Bible. In fact, biblical scripture states that God created woman from the rib of man. This is also contradictory to the following paragraph in this section, because there is an account given regarding the importance of a partner for man. The USCCB uses biblical scripture in order to explain this concept. They place emphasis on how woman was selected as a suitable partner for man, and how animals were deemed as unsuitable.

7. United States Conference of Catholic Bishops, *Marriage*, 9.

While human persons are more than biological organisms, the roots of marriage can be seen in the biological fact that a man and a woman can come together as male and female in a union that has the potential for bringing forth another human person. This kind of union fills the need for the continuation of the human race. Since human beings exist at more than a biological level, however, this union has further personal and spiritual dimensions. Marriage does not exist solely for the reproduction of another member of the species, but for the creation of a communion of persons.⁸

This section discusses the notion of biological versus spiritual relations between a man and woman. The biological portion is justified as the relational aspect of procreation.

This is that man and woman biologically fit in order to create offspring. The spiritual portion is the deeper meaning of the union of man and woman in a biological sense. The USCCB states that marriage is not only for reproductive purposes; rather, it is for the unification of man and woman.

Marriage, however, is a unique communion of persons. In their intimate union as male and female, the spouses are called to exist for each other. Just as Genesis describes Eve as a helper for Adam, we can see that in marriage, a husband and wife are meant to help each other through self-giving. “In the ‘unity of the two,’ man and woman are called from the beginning not only to exist ‘side by side’ or ‘together,’ but they are also called to exist mutually one for the other.”

This communion of persons has the potential to bring forth human life and thus to produce the family, which is itself another kind of communion of persons and which is the origin and foundation of all human society. It is precisely the difference between man and woman that makes possible this unique communion of persons, the unique partnership of life and love that is marriage. A man and woman united in marriage as husband and wife serve as a symbol of both life and love in a way that no other relationship of human persons can.⁹

This section of the letter by the USCCB discusses the communion portion of marriage between man and woman. The communion is viewed as extraordinary in the sense of

8. United States Conference of Catholic Bishops, *Marriage*, 10.

9. *Ibid.*, 11.

intimacy between man and woman within a marriage, and their co-existence. The USCCB states that the spouses are meant to sacrifice for each other and compliment each other as man and woman in marriage. Reference is made toward Adam and Eve and the original intent for Eve's creation, to be a help-mate. This is stated as the basis for the community, because marriage allows for procreation and producing the family. The USCCB states that marriage between man and woman is the only union that exhibits 'love and life.'

Pope John Paul II's theology of the body speaks of the human body as having a spousal significance. This means that the human body by its very nature signifies that we humans are directed to relationship that we are to seek union with others. For it is only in relationship that we achieve a true wholeness as a communion of persons. Before Eve was created, Adam was alone. His joy upon perceiving Eve indicated that with Eve he achieved the "original unity" that human nature seeks. God clearly made human beings to love and to be loved, to be in relationships wherein the act of giving oneself and receiving the other becomes complete.

In this context, the word "original" means not only that these experiences go back to the dawn of human history but, more importantly, that they are key to understanding our most basic human experiences. The experience of Adam and Eve speaks powerfully to our search not only to understand ourselves but also to love and be loved, to be in a relationship of love with a person of the opposite sex.¹⁰

In this section, the teachings and statements of Pope John Paul II are discussed by the USCCB. Pope John Paul II taught that there is a purpose for marriage. This purpose, as indicated by Pope John Paul II, is in reference to the union of man and woman and the attraction toward that union. The concept of relationships between the opposite sexes indicates that marriage is natural in this form, and it is the only way to conquer the communion entity discussed previously. This highlights the unity concept of marriage between man and woman in its 'original' form. The USCCB states that the 'original'

10. United States Conference of Catholic Bishops, *Marriage*, 12.

form means more than just the creation of Adam and Eve for procreation, rather also for communion.

It is the nature of love to overflow, to be life-giving. Thus, it is no surprise that marriage is ordained not only to growing in love but to transmitting life: “by its very nature the institution of marriage and married love [is] ordered to the procreation and education of the offspring and it is in them that it finds its crowning glory.” Married love itself is ordered to the procreation of children, for, after all, the first command given to Adam and Eve is “be fertile and multiply” (Gn 1:28).¹¹

In this section, the USCCB discusses the concept of love and how it naturally extends to procreation. The USCCB states that this is why the union between man and woman is natural in marriage, because the level of love is so great. They reference the command by God to Adam and Eve as a necessity for spouses to procreate, and also to justify that marriage is solely between man and woman. This is acknowledged by the fact that only man and woman jointly can procreate.

The Church speaks of an inseparable connection between the two ends of marriage: the good of the spouses themselves as well as the procreation of children. The *Catechism of the Catholic Church* teaches that “these two meanings or values of marriage cannot be separated without altering the couple’s spiritual life and compromising the goods of marriage and the future of the family.” This inseparability arises from the very nature of conjugal love, a love that “stands under the twofold obligation of fidelity and fecundity.” Conjugal love expresses the unitive meaning of marriage in such a way as to show how this meaning is ordered toward the equally obvious procreative meaning. The unitive meaning is distorted if the procreative meaning is deliberately disavowed. Conjugal love is then diminished. This love is, by its nature, faithful, exclusive, and intended to be fecund.¹²

In this section, the USCCB discusses the teachings of the Catholic Church regarding marriage. The USCCB indicates that there are two ends to marriage that remain

11. United States Conference of Catholic Bishops, *Marriage*, 14.

12. *Ibid.*, 15.

connected, and this is defined within the *Catechism of the Catholic Church*. The conjugal love, otherwise known as the proper love according to the USCCB, is the very foundation of marriage that enables procreation and sustains the relationship between spouses—the two ends to marriage. The USCCB also states that order is important in this circumstance. Conjugal love can only come through marriage which properly achieves procreation, but if procreation comes prior to marriage, then conjugal love is not a possibility. The connection between the two ends will not exist harmoniously.

One of the most troubling developments in contemporary culture is the proposition that persons of the same sex can “marry.” This proposal attempts to redefine the nature of marriage and the family and, as a result, harms both the intrinsic dignity of every human person and the common good of society.

Marriage is a unique union, a relationship different from all others. It is the permanent bond between one man and one woman whose two-in-one-flesh communion of persons is an indispensable good at the heart of every family and every society. Same-sex unions are incapable of realizing this specific communion of persons. Therefore, attempting to redefine marriage to include such relationships empties the term of its meaning, for it excludes the essential complementarity between man and woman, treating sexual difference as if it were irrelevant to what marriage is.

Male-female complementarity is intrinsic to marriage. It is naturally ordered toward authentic union and the generation of new life. Children are meant to be the gift of the permanent and exclusive union of a husband and a wife. A child is meant to have a mother and a father. The true nature of marriage, lived in openness to life, is a witness to the precious gift of the child and to the unique roles of a mother and father. Same-sex unions are incapable of such a witness. Consequently, making them equivalent to marriage disregards the very nature of marriage.¹³

In this section, the USCCB discusses the rising issue of same-sex marriage within United States public policy. The bishops acknowledge that the Catholic Church not only views same-sex marriage as a threat to society and family, but also a threat to the institution of

13. United States Conference of Catholic Bishops, *Marriage*, 22.

marriage. As the bishops have stated previously, marriage is biblically defined as being between a man and woman, and blessed with the ability to procreate through conjugal love. The USCCB highlights that same-sex marriages are not able to experience such love, because woman or man is missing from the partnership. The USCCB believes that this attempt by society to incorporate same-sex marriage is an attempt to ‘redefine marriage.’ The USCCB also discusses the importance of both sexes’ presence within a marriage as far as child-rearing is concerned. The bishops indicate that children need a mother and father, and that this naturally exists within the institution of marriage due to the original/ biblical intent of marriage. Therefore, the USCCB does not acknowledge the possibility of same-sex marriage, because it can never truly reflect marriage.

By attempting to redefine marriage to include or be made analogous with homosexual partnerships, society is stating that the permanent union of husband and wife, the unique pattern of spousal and familial love, and the generation of new life are now only of relative importance rather than being fundamental to the existence and well-being of society as a whole.

Today, advocacy for the legal recognition of various same-sex relationships is often equated with non-discrimination, fairness, equality, and civil rights. However, it is not unjust to oppose legal recognition of same-sex unions, because marriage and same-sex unions are essentially different realities. “The denial of the social and legal status of marriage to forms of cohabitation that are not and cannot be marital is not opposed to justice; on the contrary, justice requires it.” To promote and protect marriage as the union of one man and one woman is itself a matter of justice. In fact, it would be a grave injustice if the state ignored the unique and proper place of husbands and wives, the place of mothers and fathers, and especially the rights of children, who deserve from society clear guidance as they grow to sexual maturity. Indeed, without this protection the state would, in effect, *intentionally* deprive children of the right to a mother and father.

The legal recognition of same-sex unions poses a multifaceted threat to the very fabric of society, striking at the source from which society and culture come and which they are meant to serve. Such recognition affects all people, married and non-married: not only at the fundamental levels of the good of the spouses, the good of children, the intrinsic dignity of every human person, and the common

good, but also at the levels of education, cultural imagination and influence, and religious freedom.¹⁴

In this section, the USCCB discusses the relevance of marriage to society. The bishops argue that the lack of regard for the husband-wife connection of marriage is a threat to society. The USCCB also highlights the injustice to society in permitting the state to interfere with defining marriage in other ways. USCCB has highlighted the issue of same-sex marriage comparisons to other facets of history in relation to discrimination practices in various segments of society. The USCCB emphasizes that such practices are not comparable to same-sex marriage, because they are not identical practices and same-sex marriage is not the same as marriage. This is due to the fact that there is a lack of one of the two essential characters that affects, among other things, culture influence.

Evangelium Vitae

An Encyclical Letter by Pope John Paul II

The Second Vatican Council, in a passage which retains all its relevance today, forcefully condemned a number of crimes and attacks against human life. Thirty years later, taking up the words of the Council and with the same forcefulness I repeat that condemnation in the name of the whole Church, certain that I am interpreting the genuine sentiment of every upright conscience: "Whatever is opposed to life itself, such as any type of murder, genocide, abortion, euthanasia, or wilful self-destruction, whatever violates the integrity of the human person, such as mutilation, torments inflicted on body or mind, attempts to coerce the will itself; whatever insults human dignity, such as subhuman living conditions, arbitrary imprisonment, deportation, slavery, prostitution, the selling of women and children; as well as disgraceful working conditions, where people are treated as mere instruments of gain rather than as free and responsible persons; all these things and others like them are infamies indeed. They poison human society, and

14. United States Conference of Catholic Bishops, *Marriage*, 23.

they do more harm to those who practise them than to those who suffer from the injury. Moreover, they are a supreme dishonour to the Creator".¹⁵

In this section of Pope John Paul II's Encyclical, discussion occurs regarding human life. He stresses the importance of human life and the sanctity of human life. In acknowledging the importance of human life, Pope John Paul II emphasizes three areas in which attacks on human life occur. These areas are: 'the opposition to life itself,' 'the violation of the integrity of the human person,' and 'the insult of human dignity.' These areas of attack are underlined as a disgrace to God and according Pope John Paul II, violates the avenger more than the victim.

In order to facilitate the spread of abortion, enormous sums of money have been invested and continue to be invested in the production of pharmaceutical products which make it possible to kill the fetus in the mother's womb without recourse to medical assistance. On this point, scientific research itself seems to be almost exclusively preoccupied with developing products which are ever more simple and effective in suppressing life and which at the same time are capable of removing abortion from any kind of control or social responsibility.

It is frequently asserted that contraception, if made safe and available to all, is the most effective remedy against abortion. The Catholic Church is then accused of actually promoting abortion, because she obstinately continues to teach the moral unlawfulness of contraception. When looked at carefully, this objection is clearly unfounded. It may be that many people use contraception with a view to excluding the subsequent temptation of abortion. But the negative values inherent in the "contraceptive mentality"-which is very different from responsible parenthood, lived in respect for the full truth of the conjugal act-are such that they in fact strengthen this temptation when an unwanted life is conceived. Indeed, the pro-abortion culture is especially strong precisely where the Church's teaching on contraception is rejected. Certainly, from the moral point of view contraception and abortion are specifically different evils: the former contradicts the full truth of the sexual act as the proper expression of conjugal love, while the latter destroys the life of a human being; the former is opposed to the virtue of chastity in

15. Pope John Paul II, *The Gospel of Life (Evangelium Vitae)*, no.3, <http://www.vatican.va/edocs/ENG0141/PP.HTM>, accessed December 13, 2010.

marriage, the latter is opposed to the virtue of justice and directly violates the divine commandment "You shall not kill".

But despite their differences of nature and moral gravity, contraception and abortion are often closely connected, as fruits of the same tree. It is true that in many cases contraception and even abortion are practised under the pressure of real- life difficulties, which nonetheless can never exonerate from striving to observe God's law fully. Still, in very many other instances such practices are rooted in a hedonistic mentality unwilling to accept responsibility in matters of sexuality, and they imply a self-centered concept of freedom, which regards procreation as an obstacle to personal fulfillment. The life which could result from a sexual encounter thus becomes an enemy to be avoided at all costs, and abortion becomes the only possible decisive response to failed contraception.

The close connection which exists, in mentality, between the practice of contraception and that of abortion, is becoming increasingly obvious. It is being demonstrated in an alarming way by the development of chemical products, intrauterine devices and vaccines which, distributed with the same ease as contraceptives, really act as abortifacients in the very early stages of the development of the life of the new human being.¹⁶

In this section, Pope John Paul II discusses the sin associated with abortion as it relates to the sanctity of human life. This consists of monies invested in pharmaceutical companies for the purposes of drug production for abortion procedures. This, according to Pope John Paul II, is a power that no man should contain. The Catholic Church believes that God is the creator and therefore, no man has that right. According to Pope John Paul II, the pharmaceutical companies are in essence validating the practice of abortion and have the power to cease the supply. The concern is that the companies are more concerned with the profit versus human life. At this point in the discussion, social responsibility is highlighted as an important factor in the practice of abortion. The Catholic Church states that society has a responsibility to protect human life, for it is God's creation. Pope John Paul II also discusses the issue of contraception and the relevance to abortion within

16. Pope John Paul II, *The Gospel of Life (Evangelium Vitae)*, no.13.

society. The Catholic Church has voiced concerns regarding the use of contraception due to the fact that it inhibits the natural creation of life and expression of conjugal love. Pope John Paul II states that this is often misconstrued as a headline to abortion practices. Pope John Paul II explains that there is a difference between abortion and contraception, for the destruction of a life is involved with abortion and this firmly violates one of the ten commandments.

In view of laws which permit abortion and in view of efforts, which here and there have been successful, to legalize euthanasia, movements and initiatives to raise social awareness in defence of life have sprung up in many parts of the world. When, in accordance with their principles, such movements act resolutely, but without resorting to violence, they promote a wider and more profound consciousness of the value of life, and evoke and bring about a more determined commitment to its defence.

Furthermore, how can we fail to mention all those daily gestures of openness, sacrifice and unselfish care which countless people lovingly make in families, hospitals, orphanages, homes for the elderly and other centres or communities which defend life? Allowing herself to be guided by the example of Jesus the "Good Samaritan" (cf. Lk. 10:29-37) and upheld by his strength, the Church has always been in the front line in providing charitable help: so many of her sons and daughters, especially men and women Religious, in traditional and ever new forms, have consecrated and continue to consecrate their lives to God, freely giving of themselves out of love for their neighbour, especially for the weak and needy. These deeds strengthen the bases of the "civilization of love and life", without which the life of individuals and of society itself loses its most genuinely human quality. Even if they go unnoticed and remain hidden to most people, faith assures us that the Father "who sees in secret" (Mt 6:6) not only will reward these actions but already here and now makes them produce lasting fruit for the good of all.¹⁷

In this section, Pope John Paul II discusses laws that enable practices such as euthanasia and abortion. Many examples of the violation of life and lack of love expression through such practices are provided. The Catholic Church has demonstrated the support for life

17. Pope John Paul II, *The Gospel of Life (Evangelium Vitae)*, no.27.

against such practices through the defense of life. Pope John Paul II highlights the necessity of love within society, and the significance of love in order to preserve the reverence for life.

Faced with the countless grave threats to life present in the modern world, one could feel overwhelmed by sheer powerlessness: good can never be powerful enough to triumph over evil!

At such times the People of God, and this includes every believer, is called to profess with humility and courage its faith in Jesus Christ, "the Word of life" (1 Jn 1:1). The Gospel of life is not simply a reflection, however new and profound, on human life. Nor is it merely a commandment aimed at raising awareness and bringing about significant changes in society. Still less is it an illusory promise of a better future. The Gospel of life is something concrete and personal, for it consists in the proclamation of the very person of Jesus. Jesus made himself known to the Apostle Thomas, and in him to every person, with the words: "I am the way, and the truth, and the life" (Jn 14:6). This is also how he spoke of himself to Martha, the sister of Lazarus: "I am the resurrection and the life; he who believes in me, though he die, yet shall he live, and whoever lives and believes in me shall never die" (Jn 11:25-26). Jesus is the Son who from all eternity receives life from the Father (cf. Jn 5:26), and who has come among men to make them sharers in this gift: "I came that they may have life, and have it abundantly" (Jn 10:10).

Through the words, the actions and the very person of Jesus, man is given the possibility of "knowing" the complete truth concerning the value of human life. From this "source" he receives, in particular, the capacity to "accomplish" this truth perfectly (cf. Jn 3:21), that is, to accept and fulfil completely the responsibility of loving and serving, of defending and promoting human life. In Christ, the Gospel of life is definitively proclaimed and fully given. This is the Gospel which, already present in the Revelation of the Old Testament, and indeed written in the heart of every man and woman, has echoed in every conscience "from the beginning", from the time of creation itself, in such a way that, despite the negative consequences of sin, it can also be known in its essential traits by human reason. As the Second Vatican Council teaches, Christ "perfected revelation by fulfilling it through his whole work of making himself present and manifesting himself; through his words and deeds, his signs and wonders, but especially through his death and glorious Resurrection from the dead and final sending of the Spirit of truth. Moreover, he confirmed with divine testimony what

revelation proclaimed: that God is with us to free us from the darkness of sin and death, and to raise us up to life eternal".¹⁸

In this section, Pope John Paul II discusses the powers of good and evil within society, and the fact that evil cannot prevail over good. Therefore, faith must remain at the forefront of the human mind in order to diminish evils that persist. Pope John Paul II explains that the Gospel of Life functions in the hearts of men due to the creation of man. According to biblical scripture, upon which Pope John Paul II based his discussion, Jesus stated "I am the way, and the truth, and the life," and "I came that they may have life, and have it abundantly." This signifies that there is great value on human life.

Man's life comes from God; it is his gift, his image and imprint, a sharing in his breath of life. God therefore is the sole Lord of this life: man cannot do with it as he wills. God himself makes this clear to Noah after the Flood: "For your own lifeblood, too, I will demand an accounting ... and from man in regard to his fellow man I will demand an accounting for human life" (Gen 9:5). The biblical text is concerned to emphasize how the sacredness of life has its foundation in God and in his creative activity: "For God made man in his own image" (Gen 9:6).

Human life and death are thus in the hands of God, in his power: "In his hand is the life of every living thing and the breath of all mankind", exclaims Job (12:10). "The Lord brings to death and brings to life; he brings down to Sheol and raises up" (1 Sam 2:6). He alone can say: "It is I who bring both death and life" (Dt. 32:39).

But God does not exercise this power in an arbitrary and threatening way, but rather as part of his care and loving concern for his creatures. If it is true that human life is in the hands of God, it is no less true that these are loving hands, like those of a mother who accepts, nurtures and takes care of her child: "I have calmed and quieted my soul, like a child quieted at its mother's breast; like a child that is quieted is my soul" (Ps 131:2; cf. Is 49:15; 66:12-13; Hos. 11:4). Thus Israel does not see in the history of peoples and in the destiny of individuals the outcome of mere chance or of blind fate, but rather the results of a loving plan by which God brings together all the possibilities of life and opposes the powers of death arising from sin: "God did not make death, and he does not delight in the

18. Pope John Paul II, *The Gospel of Life (Evangelium Vitae)*, no.29.

death of the living. For he created all things that they might exist" (Wis. 1:13-14)¹⁹

In this section, Pope John Paul II discusses the importance of acknowledging that life is created by God, a gift given to humans. This gift derives from his image, and to destroy life is a direct blemish to his image. Therefore, Pope John Paul II indicates that this is the reason that man does not have the right to destroy life, for it is unjust to destroy that which one did not create. Pope John Paul II utilizes biblical scripture to validate this concept which states that "It is I who bring both death and life," but it is important to recognize that death as a result of sin is frowned upon by God.

"And behold, one came up to him, saying, Teacher, what good deed must I do, to have eternal life?" (Mt 19:6). Jesus replied, "If you would enter life, keep the commandments" (Mt 19:17). The Teacher is speaking about eternal life, that is, a sharing in the life of God himself. This life is attained through the observance of the Lord's commandments, including the commandment "You shall not kill". This is the first precept from the Decalogue which Jesus quotes to the young man who asks him what commandments he should observe: Jesus said, 'You shall not kill, You shall not commit adultery, You shall not steal...' (Mt 19:18).

God's commandment is never detached from his love: it is always a gift meant for man's growth and joy. As such, it represents an essential and indispensable aspect of the Gospel, actually becoming "gospel" itself: joyful good news. The Gospel of life is both a great gift of God and an exacting task for humanity. It gives rise to amazement and gratitude in the person graced with freedom, and it asks to be welcomed, preserved and esteemed, with a deep sense of responsibility. In giving life to man, God demands that he love, respect and promote life. The gift thus becomes a commandment, and the commandment is itself a gift.

Man, as the living image of God, is willed by his Creator to be ruler and lord. Saint Gregory of Nyssa writes that "God made man capable of carrying out his role as king of the earth ... Man was created in the image of the One who governs the universe. Everything demonstrates that from the beginning man's nature was marked by royalty... Man is a king. Created to exercise dominion over the world, he was given a likeness to the king of the universe; he is the living image who participates by his dignity in the perfection of the divine archetype." Called to be

19. Pope John Paul II, *The Gospel of Life (Evangelium Vitae)*, no.39.

fruitful and multiply, to subdue the earth and to exercise dominion over other lesser creatures (cf. Gen 1:28), man is ruler and lord not only over things but especially over himself, and in a certain sense, over the life which he has received and which he is able to transmit through procreation, carried out with love and respect for God's plan. Man's lordship however is not absolute, but ministerial: it is a real reflection of the unique and infinite lordship of God. Hence man must exercise it with wisdom and love, sharing in the boundless wisdom and love of God. And this comes about through obedience to God's holy Law: a free and joyful obedience (cf. Ps 119), born of and fostered by an awareness that the precepts of the Lord are a gift of grace entrusted to man always and solely for his good, for the preservation of his personal dignity and the pursuit of his happiness.

With regard to things, but even more with regard to life, man is not the absolute master and final judge, but rather-and this is where his incomparable greatness lies-he is the "minister of God's plan."

Life is entrusted to man as a treasure which must not be squandered, as a talent which must be used well. Man must render an account of it to his Master (cf. Mt 25:14-30; Lk. 19:12-27).²⁰

In this section, Pope John Paul II discusses the importance of keeping God's commandments. In relation to abortion, Pope John Paul II highlights the 1st commandment, "Thou Shall Not Kill," as being the most important. Therefore, this signifies that abortion violates the most important commandment due to the fact that it is murder. Pope John Paul II places emphasis on the fact that life is a gift from God, and that the gift itself is a commandment and all is a gift from God. From this statement, it can be assumed that a violation of life is a sin, given that the violation of God's commandments is a sin.

As explicitly formulated, the precept "You shall not kill" is strongly negative: it indicates the extreme limit which can never be exceeded. Implicitly, however, it encourages a positive attitude of absolute respect for life; it leads to the promotion of life and to progress along the way of a love which gives, receives and serves. The people of the Covenant, although slowly and with some contradictions, progressively matured in this way of thinking, and thus prepared for the great

20. Pope John Paul II, *The Gospel of Life (Evangelium Vitae)*, no.52.

proclamation of Jesus that the commandment to love one's neighbour is like the commandment to love God; "on these two commandments depend all the law and the prophets" (cf. Mt 22:36-40). Saint Paul emphasizes that "the commandment ... you shall not kill ... and any other commandment, are summed up in this phrase: 'You shall love your neighbour as yourself' " (Rom 13:9; cf. Gal 5:14). Taken up and brought to fulfilment in the New Law, the commandment "You shall not kill" stands as an indispensable condition for being able "to enter life" (cf. Mt 19:16-19). In this same perspective, the words of the Apostle John have a categorical ring: "Anyone who hates his brother is a murderer, and you know that no murderer has eternal life abiding in him" (1 Jn 3:15).

From the beginning, the living Tradition of the Church-as shown by the Didache, the most ancient non-biblical Christian writing-categorically repeated the commandment "You shall not kill": "There are two ways, a way of life and a way of death; there is a great difference between them... In accordance with the precept of the teaching: you shall not kill ... you shall not put a child to death by abortion nor kill it once it is born ... The way of death is this: ... they show no compassion for the poor, they do not suffer with the suffering, they do not acknowledge their Creator, they kill their children and by abortion cause God's creatures to perish; they drive away the needy, oppress the suffering, they are advocates of the rich and unjust judges of the poor; they are filled with every sin. May you be able to stay ever apart, o children, from all these sins!"

As time passed, the Church's Tradition has always consistently taught the absolute and unchanging value of the commandment "You shall not kill". It is a known fact that in the first centuries, murder was put among the three most serious sins-along with apostasy and adultery-and required a particularly heavy and lengthy public penance before the repentant murderer could be granted forgiveness and readmission to the ecclesial community.²¹

In this section, Pope John Paul II discusses the Catholic Church's tradition on the sanctity of human life. He indicates that the church has always stood against the destruction of life, otherwise known as murder. This tradition has remained a constant due to the command by God as to the keeping of His commandments. Therefore, Pope John Paul II indicates that this is why death brings forth death and life brings forth love, and destruction of life is sin.

21. Pope John Paul II, *The Gospel of Life (Evangelium Vitae)*, no. 54.

A Culture of Life and the Penalty of Death

A Statement of the United States Conference of Catholic Bishops Calling for an End to the Use of the Death Penalty

Our nation should forgo the use of the death penalty because—the sanction of death, when it is not necessary to protect society, violates respect for human life and dignity; state-sanctioned killing in our names diminishes all of us; its application is deeply flawed and can be irreversibly wrong, is prone to errors, and is biased by factors such as race, the quality of legal representation, and where the crime was committed; and we have other ways to punish criminals and protect society.

For a quarter-century, Catholics have worked with others in state legislatures, in the courts, and in Congress to restrain or end the use of the death penalty. New allies and arguments offer new opportunities to make a difference. Under the leadership of our beloved Pope John Paul II, Catholics teaching on the death penalty has been articulated and applied with greater clarity and strength. Many people, especially Catholics, appear to be reconsidering their past support for the death penalty. The Supreme Court and some states, with our active support, have limited the use of capital punishment. Today, there is a serious re-examination of the death penalty—its fairness and effectiveness, its social and moral dimensions. We renew our common conviction that it is time for our nation to abandon the illusion that we can protect life by taking life. Ending the use of the death penalty would be one important step away from a culture of death toward building a culture of life.²²

In this section, the USCCB discusses the Catholic Church's position regarding the use of the death penalty. The Catholic Church has stated its position as one that does not support the use of the death penalty unless it is to protect society. The USCCB clarifies that the use of the death penalty in order to avenge the death of another human being goes against what is just to maintain the sanctity of life. The USCCB explains that taking a life via the death penalty is all of society's responsibility, because tax dollars are used in order to execute the process. The USCCB has attempted to sway decision-makers regarding the

22. United States Conference of Catholic Bishops, *A Culture of Life and the Penalty of Death* (Washington, D.C.: USCCB, 2005), 3-4.

use of the death penalty through teachings and expressing strong arguments against the practice. The USCCB encourages all of society to enforce a ‘culture of life’ versus a ‘culture of death.’ The culture of life, although specific to the death penalty in this text, is one encouraged and taught in all forms of destruction of life within the Catholic Church by the USCCB.

As teachers, we have the obligation to share our Catholic faith and moral tradition, including teaching on the death penalty. While complex, the teaching of the Universal Church is clear. It has developed over time and has been taught most powerfully in the words and witness of Pope John Paul II. Catholic teaching on the death penalty is clearly articulated in the encyclical *The Gospel of Life*, the *Catechism of the Catholic Church* and the *Compendium of the Social Doctrine of the Church*. In Catholic teaching the state has the recourse to impose the death penalty upon criminals convicted of heinous crimes if this ultimate sanction is the only available means to protect society from a grave threat to human life. However, this right should not be exercised when other ways are available to punish criminal and to protect society that are more respectful of human life.²³

In this section, the USCCB discusses the bishops' position as teachers within society in relation to Catholic social teaching in general. Emphasis is placed on the use of the death penalty due to the overwhelming distain for destruction of life within the Catholic tradition. The USCCB explains that it is their duty as teachers to spread the moral underpinnings of the faith. This includes the use of the death penalty due to the disregard for restoration of human beings within the criminal justice system. The USCCB indicates that the death penalty should only be used in cases where there is no other option for punishment, and where there is a current threat for the safety of society.

As pastors, we share the justified anger and revulsion at terrible and deadly crimes. In calling for an end to the use of the death penalty, we do not seek to diminish in any way the evil and harm caused by people who commit horrible murders. We also share the hurt and horror, the loss and heartache that are the result of unspeakable acts of violence. We have presided at the funerals of police

23. United States Conference of Catholic Bishops, *A Culture of Life*, 4.

officers killed in the line of duty and have consoled parents who have lost children. We have heard the anger and despair of victims' families who feel ignored by the criminal justice system, society as a whole, and, at times, even the Church. Our family of faith must care for sisters and brothers who have been wounded by violence and support them in their loss and search for justice. They deserve our compassion, solidarity, and support—spiritual, pastoral, and personal. However, standing with families of victims does not compel us to support the use of the death penalty. Often these families are further violated by the legal processes and public attention that come along with capital punishment. For many left behind, a death sentence offers the illusion of closure and vindication. No act, even an execution, can bring back a loved one or heal terrible wounds. The pain and loss of one death cannot be wiped away by another death.²⁴

In this section, the USCCB discusses the position of the church in relation to killing as pastors. The position is stated as one of clear opposition, and the regard for the victims and their families of such crimes. The USCCB clarifies that although the Catholic Church despises such deadly acts, the Church does not condone the taking of another life as a result of crime. The USCCB indicates that the use of the death penalty does not provide a valid solution to homicide, unless there is no other option for society.

As leaders of a community of faith and as participants in our democracy, we are committed to contribute to a growing civil dialogue and reassessment of the use of this ultimate punishment. The death penalty arouses deep passions and strong convictions. People of goodwill disagree. In these reflections, we offer neither judgment nor condemnation but instead encourage engagement and dialogue, which we hope may lead to re-examination and conversion. Our goal is not just to proclaim a position, but to persuade Catholics and others to join us in working to end the use of the death penalty. We seek to help build a culture of life in which our nation will no longer try to teach that killing is wrong by killing those who kill. This cycle of violence diminishes all of us.²⁵

In this section, the USCCB discusses the position of the use of the death penalty as leaders. It is stated that there are various opinions of the use of the death penalty within the Catholic Church, but the overall goal of the Catholic Church is to influence society

24. United States Conference of Catholic Bishops, *A Culture of Life*, 4-6.

25. *Ibid.*, 11.

against the use of the death penalty. The USCCB also explains the continuance of killing that does not achieve anything good.

Each of us is called to respect the life and dignity of every human being. Even when people deny the dignity of others, we must still recognize that their dignity is a gift from God and is not something that is earned or lost through their behavior. Respect for life applies to all, even the perpetrators of terrible acts. Punishment should be consistent with the demands of justice and with respect for human life and dignity.²⁶

In this section, the USCCB discusses the accountability of all for the respect of human beings and life. The statement reflects that even the criminals deserve the respect in relation to life. Therefore, the respect for life extends to the use of the death penalty as a punishment.

Catholic teaching on the common good commits each of us to pursue the good of everyone and of society as a whole. When the state, in our names and with our taxes, ends a human life despite having non-lethal alternatives, it suggests that society can overcome violence with violence. The use of the death penalty ought to be abandoned not only for what it does to those who are executed, but for what it does to all of society.²⁷

In this section, the USCCB discusses the purpose of Catholic social teaching. The purpose, as indicated above, is for society to maintain a high moral standard in relation to the respect for each other. The USCCB explains that the use of the death penalty is at the mercy of society, because society supports the practice financially. Therefore, the USCCB is inferring that society is partially responsible and the use of the death penalty damages society.

26. United States Conference of Catholic Bishops, *A Culture of Life*, 11.

27. *Ibid.*, 14.

Forming Consciences for Faithful Citizenship

A Call to Political Responsibility from the Catholic Bishops of the United States

The Church's obligation to participate in shaping the moral character of society is a requirement of our faith. It is a basic part of the mission we have received from Jesus Christ, who offers a vision of life revealed to us in Sacred Scripture and Tradition. To echo the teaching of the Second Vatican Council: Christ, the Word made flesh, in showing us the Father's love, also shows us what it truly means to be human (see *Gaudium et Spes*, no. 22). Christ's love for us lets us see our human dignity in full clarity and compels us to love our neighbors as he has loved us. Christ, the Teacher, shows us what is true and good, that is, what is in accord with our human nature as free, intelligent beings created in God's image and likeness and endowed by the Creator with dignity and rights.²⁸

In this section, the USCCB outlines the Catholic Church's duty to act on moral issues within society as a Christian. The bishops use the example of Jesus Christ's actions within biblical scripture to represent how humans should conduct themselves. This is displayed as love for one another as Christ loved 'us,' according to the USCCB.

Some question whether it is appropriate for the Church to play a role in political life. However, the obligation to teach about moral values that should shape our lives, including our public lives, is central to the mission given to the Church by Jesus Christ. Moreover, the United States Constitution protects the right of individual believers and religious bodies to participate and speak out without government interference, favoritism, or discrimination. Civil law should fully recognize and protect the Church's right, obligation, and opportunities to participate in society without being forced to abandon or ignore its central moral convictions. Our nation's tradition of pluralism is enhanced, not threatened, when religious groups and people of faith bring their convictions and concerns into public life. Indeed, our Church's teaching is in accord with the foundational values that have shaped our nation's history: "life, liberty, and the pursuit of happiness."²⁹

In this section, the USCCB defines the role of the Church in politics as it relates to participation. The bishops highlight the fact that it is the Church's duty to shape the moral

28. United States Conference of Catholic Bishops, *Forming Conscience for Faithful Citizenship* (Washington, D.C.: USCCB, 2007) no.9.

29. Ibid., no.14.

character of society. This section also references the separation of church and state, specifically the Establishment Clause. The bishops indicate that the Church has a right to impress its views in shaping society due to their Constitutional right outside of biblical doctrine. The bishops discuss the need for such practices by various religious groups and organizations throughout society in order for a pluralistic base to exist. Therefore, the USCCB understands the necessity of its role in political processes, but also respects the law.

Unfortunately, politics in our country often can be a contest of powerful interests, partisan attacks, sound bites, and media hype. The Church calls for a different kind of political engagement: one shaped by the moral convictions of well-formed consciences and focused on the dignity of every human being, the pursuit of the common good, and the protection of the weak and the vulnerable. The Catholic call to faithful citizenship affirms the importance of political participation and insists that public service is a worthy vocation. As Catholics, we should be guided more by our moral convictions than by our attachment to a political party or interest group. When necessary, our participation should help transform the party to which we belong; we should not let the party transform us in such a way that we neglect or deny fundamental moral truths. We are called to bring together our principles and our political choices, our values and our votes, to help build a better world.³⁰

In this section, the USCCB discusses the Church's role in politics as a different entity in function and comparison to interest groups and parties. Rather, the USCCB identifies that the Church has a different agenda rooted in shaping the morality of society through teachings of biblical nature. These teachings derive from the respect for life and 'human dignity.' The USCCB also indicates that Catholics should participate in political activities but based on the moral standards stipulated in biblical doctrine. The USCCB discusses the necessity for Catholics to shape political parties in a moral fashion parallel to that taught by the Catholic Church.

30. United States Conference of Catholic Bishops, *Forming Consciousness*, no.14.

Clergy and lay people have complementary roles in public life. We bishops have the primary responsibility to hand on the Church's moral and social teaching. Together with priests and deacons, assisted by religious and lay leaders of the Church, we are to teach fundamental moral principles that help Catholics form their consciences correctly, to provide guidance on the moral dimensions of public decisions, and to encourage the faithful to carry out their responsibilities in political life.³¹

In this section, the USCCB, discusses the harmonious relationship between leadership and congregations. The bishops explain the need for both to participate in political processes in order to spread the teachings of the Catholic Church. The USCCB indicates that the participation of all persons within the Church helps to guide persons in decision-making regarding 'political life.'

The formation of conscience includes several elements. First, there is a desire to embrace goodness and truth. For Catholics this begins with a willingness and openness to seek the truth and what is right by studying Sacred Scripture and the teaching of the Church as contained in the *Catechism of the Catholic Church*. It is also important to examine the facts and background information about various choices. Finally, prayerful reflection is essential to discern the will of God. Catholics must also understand that if they fail to form their consciences they can make erroneous judgments.³²

In this section, the USCCB outlines the elements that help to shape the conscience of Catholics. These elements are the desire, study, and prayer. As the USCCB discusses these elements, the study portion appears to be the focus area. The study element consists of the embracing of biblical doctrine and also Catholic teachings outlined in the Catechism. The USCCB indicates that without this element, the conscience of the Catholic individual becomes tainted and led to make wrong choices.

31. United States Conference of Catholic Bishops, *Forming Conscience*, no.15.

32. Ibid., no.18.

Aided by the virtue of prudence in the exercise of well-formed consciences, Catholics are called to make practical judgments regarding good and evil choices in the political arena.³³

In this section, the USCCB discusses the conscience of Catholics in political life but also political bodies. The USCCB places emphasis on the necessity for Catholics to have a ‘well-formed’ conscience in order to make sound decisions. A ‘well-formed’ conscience is one guided by moral convictions outlined in Catholic teachings. Therefore, the USCCB is delegating to Catholics involved in political decision-making entities to have regard for such convictions. The USCCB indicates that this regard drives the understanding and shaping of decisions between those things that are good and those things that are evil.

There are some things we must never do, as individuals or as a society, because they are always incompatible with love of God and neighbor. Such actions are so deeply flawed that they are always opposed to the authentic good of persons. These are called “intrinsically evil” actions. They must always be rejected and opposed and must never be supported or condoned. A prime example is the intentional taking of innocent human life, as in abortion and euthanasia. In our nation, “abortion and euthanasia have become preeminent threats to human dignity because they directly attack life itself, the most fundamental human good and the condition for all others” (*Living the Gospel of Life*, no. 5). It is a mistake with grave moral consequences to treat the destruction of innocent human life merely as a matter of individual choice. A legal system that violates the basic right to life on the grounds of choice is fundamentally flawed.³⁴

In this section, the USCCB discusses the compatibility with God’s love for people, and the example for people to follow. The USCCB lays a foundation of things that are not complementary to God’s love such as a lack of respect for human life and dignity. The bishops indicate that some activities are always considered evil, because the presence of the intent to do evil. The USCCB indicates that such activities are abortion and

33. United States Conference of Catholic Bishops, *Forming Consciousness*, no.21.

34. *Ibid.*, no.22.

euthanasia, because the individual is destroying life. The USCCB also explains that any criminal justice that supports such activities is defective in nature.

Two temptations in public life can distort the Church's defense of human life and dignity:

The first is a moral equivalence that makes no ethical distinctions between different kinds of issues involving human life and dignity. The direct and intentional destruction of innocent human life from the moment of conception until natural death is always wrong and is not just one issue among many. It must always be opposed.

The second is the misuse of these necessary moral distinctions as a way of Dismissing or ignoring other serious threats to human life and dignity. Racism and other unjust discrimination, the use of the death penalty, resorting to unjust war, the use of torture, war crimes, the failure to respond to those who are suffering from hunger or a lack of health care, or an unjust immigration policy are all serious moral issues that challenge our consciences and require us to act. These are not optional concerns which can be dismissed. Catholics are urged to seriously consider Church teaching on these issues. Although choices about how best to respond to these and other compelling threats to human life and dignity are matters for principled debate and decision, this does not make them optional concerns or permit Catholics to dismiss or ignore Church teaching on these important issues. Clearly not every Catholic can be actively involved on each of these concerns, but we need to support one another as our community of faith defends human life and dignity wherever it is threatened. We are not factions, but one family of faith fulfilling the mission of Jesus Christ.³⁵

In these sections, the USCCB discusses the challenges to the teachings of the Catholic Church on respect for human life and dignity. One of the challenges deals with the issue of the destruction of life. The USCCB indicates that many external to the Catholic Church misinterpret the Church's opposition to such practices in cases where the Church may appear less vocal. The USCCB clarifies that the Church is opposed to any form of destruction of life. The second challenge deals with the threat o human life that leads to the destruction of life. The USCCB clarifies that cases such as war and poverty should be

35. United States Conference of Catholic Bishops, *Forming Consciousness*, no.27-29.

treated in the same manner as an intentional threat to life such as abortion. The USCCB calls on Catholics to stand as a unified entity on such issue to aid in the altering of such immoral practices.

Decisions about political life are complex and require the exercise of a well-formed conscience aided by prudence. This exercise of conscience begins with outright opposition to laws and other policies that violate human life or weaken its protection. Those who knowingly, willingly, and directly support public policies or legislation that undermine fundamental moral principles cooperate with evil.³⁶

In this section, the USCCB discusses the importance of a ‘well-formed’ conscience in order to make good decisions in the political arena. The USCCB calls for the destruction of policies that reduce the importance of human life and dignity. The USCCB also states that anyone who purposely participates in such activities assists with evil practices.

Catholics often face difficult choices about how to vote. This is why it is so important to vote according to a well-formed conscience that perceives the proper relationship among moral goods. A Catholic cannot vote for a candidate who takes a position in favor of an intrinsic evil, such as abortion or racism, if the voter’s intent is to support that position. In such cases a Catholic would be guilty of formal cooperation in grave evil. At the same time, a voter should not use a candidate’s opposition to an intrinsic evil to justify indifference or inattentiveness to other important moral issues involving human life and dignity.³⁷

In this section, the USCCB discusses the voting pattern of Catholics. The USCCB explains that the Catholic must understand the moral convictions of the Church teachings in order to vote correctly. The USCCB also states that Catholics are accountable, in a sense, to vote in a complementary state to that which is identified in biblical scripture and the Catechism. The USCCB also explains that any Catholic who knowingly votes against such principles indicated in the Catholic Church teachings is doing evil. The USCCB also

36. United States Conference of Catholic Bishops, *Forming Consciousness*, no.31.

37. *Ibid.*, no.34.

indicates, on the other hand, that opposition to an evil should not be used as a tool for taunt of the individual.

The Church is involved in the political process but is not partisan. The Church cannot champion any candidate or party. Our cause is the defense of human life and dignity and the protection of the weak and vulnerable.

The Church is engaged in the political process but should not be used. We welcome dialogue with political leaders and candidates; we seek to engage and persuade public officials. Events and “photo-ops” cannot substitute for serious dialogue.³⁸

In these sections, the USCCB lays a foundation for its position in politics and its dealings with candidates. The USCCB identifies the Church as being unbiased in terms of political affiliation, and also explains the inability to endorse candidates. The Church clearly states that the only purpose for participation in politics is to push the agenda of respect for human life and dignity.

Catholic teaching challenges voters and candidates, citizens and elected officials, to consider the moral and ethical dimensions of public policy issues. In light of ethical principles, we bishops offer the following policy goals that we hope will guide Catholics as they form their consciences and reflect on the moral dimensions of their public choices. We hope Catholics will ask candidates how they intend to help our nation pursue these important goals:

- Address the preeminent requirement to protect the weakest in our midst—innocent unborn children—by restricting and bringing to an end the destruction of unborn children through abortion.
- Keep our nation from turning to violence to address fundamental problems—a million abortions each year to deal with unwanted pregnancies, euthanasia and assisted suicide to deal with the burdens of illness and disability, the destruction of human embryos in the name of research, the use of the death penalty to combat crime, and imprudent resort to war to address international disputes.
- Define the central institution of marriage as a union between one man and one woman, and provide better support for family life morally, socially, and economically, so that our nation helps

38. United States Conference of Catholic Bishops, *Forming Consciousness*, no.58-59.

parents raise their children with respect for life, sound moral values, and an ethic of stewardship and responsibility.³⁹

In this section, the USCCB discusses the overall challenge to Catholics in relation to political participation. The USCCB outlines the moral standards by which bishops operate as well as the expectation for Catholics. From the ten identified in this document, the top three identified deal with the issue of abortion, death penalty, and same-sex marriage. Similar concepts expressed throughout this document are emphasized within the three areas of focus—morality, ethics, respect for human life and dignity, and the maintenance of commands by God set forth in biblical doctrine.

Summary of Analyses and Interpretations of Original Documents

Overall, the analyses and interpretations of the original documents highlights the key areas of focus for this study, ‘separation of church and state’ and the Catholic Church’s role in public policy processes, in relation to research questions #2 and #3. The analyses of the original documents indicates that the Catholic Church is against any policy practice that contradicts biblical doctrine. The analyses also indicated the running theme of the Catholic Church as being the “safe-keeping of human dignity and human life.” Specific areas of the documents were selected for analysis in order to address the research question.

39. United States Conference of Catholic Bishops, *Forming Consciousness*, no.90.

Survey Results

The information within this section of the study reflects the results of the survey questions presented to the bishops of the United States Conference of Catholic Bishops. The number of bishops who completed the survey was 42 out of a total population of 174. The data source utilized in order to calculate the results of the survey was SPSS.

Demographic Content

Table 1. Age

	N	%
30 - 39	0	0.0
40 - 49	0	0.0
50 - 59	11	26.2
60 - 69	21	50.0
70 - 79	10	23.8
80 - 89	0	0.0
90 and up	0	0.0
Total	42	100.0

Table 1 displays the age range of the selected population, the USCCB. The table portrays that of the 42 participants, the age groups are populated as such: 0% within the 30-39 age range; 0% within the 40-49 age range; 11 or 26.2% within the 50-59 age range; 21 or 50% within the 60-69 age range; 10 or 23.8% within the 70-79 age range; and 0% in both the 80-89 age range and 90 and above age range. The table displays that the majority of Catholic bishops fall into the age range of 60-69 years.

Table 2. Highest level of education attained

	N	%
Bachelors	1	2.4
Masters	20	47.6
Doctorate	21	50.0
Total	42	100.0

Table 2 displays the current education level of the selected population, the USCCB. The table displays that of the 42 participants, the education levels of the bishops are: 1 or 2.4% have a bachelors degree; 20 or 47.6% have a masters degree; and 21 or 50% have a doctorate degree. The table shows that all participants have some sort of higher education degree. The table also reflects that 97.6% of the bishops have a graduate degree.

Table 3. Diocese location

	N	%
Northeast	9	21.4
Southeast	7	16.7
Midwest	14	33.3
Southwest	1	2.4
West	11	26.2
Total	42	100.0

Table 3 displays the geographical location of the selected population within the United States. The table portrays that of the 42 participants, the regional location distribution is the following: 9 or 21.4% live in the Northeast; 7 or 16.7% live in the Southeast; 14 or 33.3% live in the Midwest; 1 or 2.4% live in the Southwest; and 11 or 26.2% live in the West. The table shows that the majority of the bishops who opted to participate in this study live in the Midwest.

Table 4. Bishop length of service

	N	%
1 – 10 years	14	33.3
11 – 20 years	22	52.4
21 – 30 years	5	11.9
31 – 40 years	1	2.4
41+ years	0	0.0
Total	42	100.0

Table 4 displays the length of time served, since being ordained a bishop. The table portrays that of the 42 participants, the time served is distributed as such: 14 or 33.3% have served for 1-10 years; 22 or 52.4% have served for 11-20 years; 5 or 11.9% have served for 21-30 years; 1 or 2.4% have served for 31-40 years; and 0% have served 41+ years. The table shows that the maximum length of time served as bishop ranges from 11-20 years.

*Subject-Matter Content***Table 5. Belief that the Establishment Clause limits the church**

	N	%
Yes	0	0.0
No	42	100.0
Other	0	0.0
Total	42	100.0

Table 5 displays bishops' views on whether the Establishment Clause prohibits Church involvement in public policy processes. The table portrays that of the 42 participants, the views of the bishops are distributed as the following: 0 or 0% view the Establishment Clause *does* prohibit Church involvement in public policy processes; and 42 or 100% view the Establishment Clause *does not* prohibit Church involvement in public policy processes. The participants were provided with a statement including the definition of the Establishment Clause.

Table 6. Belief in separation of church and state

	N	%
Yes	40	95.2
No	2	4.8
Total	42	100.0

Table 6 displays bishops' beliefs on whether there should be a separation of church and state. The table portrays that of the 42 participants, the beliefs of the bishops are as follows: 40 or 95.2% believe that there should be a separation of church and state; and 2 or 4.8% believe that there should not be a separation of church and state.

Table 7.1. Bishop involvement in public policy processes or activities

	N	%
Yes	42	100.0
No	0	0.0
Total	42	100.0

Table 7.2. Activities and public policy processes of bishops

	N	%
Pastoral Letters	35	83.3
Letter to local newspaper	19	45.2
Directing priests	30	71.4
Using established auxiliaries	28	66.7
Encouraging and promoting	37	88.1
Other	7	16.7

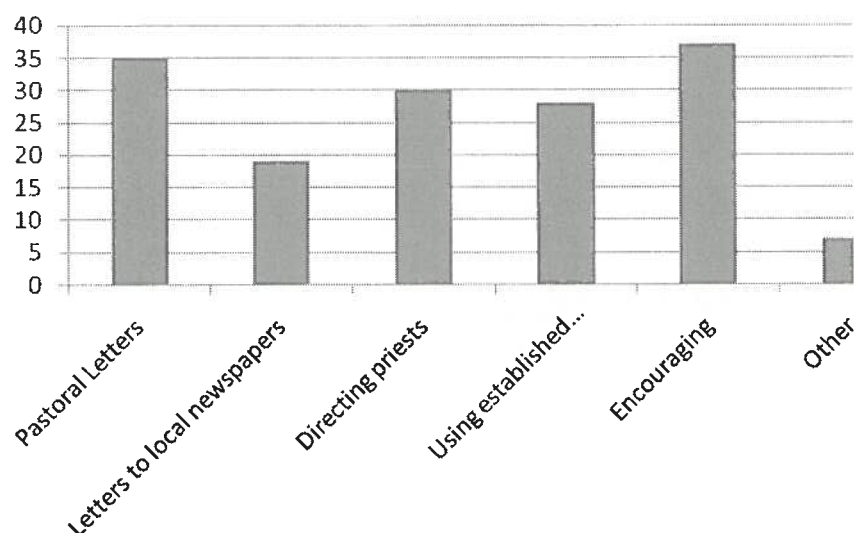
**Figure 1. Number of bishops involved in public policy activities**

Table 7.1, 7.2 and Figure 1 refer to the survey results of the following question: Are you involved in any public policy processes or activities? Table 7.1 displays the yes and no responses of the bishops. They are distributed as follows: 0% responded “no” to the question; and 42 or 100% responded yes to the question. Table 7.2 displays the

responses to the second part of the question, which asks the bishops to check all public policy processes or activities in which he is involved. The response distribution is as follows: 35 or 83.3% of bishops state that they participate in sending pastoral letters to the faithful in the parishes of the diocese expressing interpretation of the Church's teaching on the selected issue or public policy; 19 or 45.2% of bishops state that they participate in sending letters to local newspapers, interpreting the Church's doctrine; 30 or 71.4% of bishops state that they direct priests in their diocese to organize discussion groups or forums around the issue; 28 or 66.7% of bishops state that they use established auxiliaries in the parishes to keep or become informed about the issue and the Church's teaching; 37 or 88.1% of bishops state that they encourage and promote public witness to the Church's stance; and 7 or 16.7% of all bishops state "other". The "other" responses were as such: Establishing lay groups to work independently on public policy; Diocesan newspaper column and television programs; Collaboration with and support of the Colorado Catholic Conference; Use of State Catholic Conference to address a wide variety of public policy issues both for advocacy in parishes throughout the state on issues such as capital punishment and lobbying the state legislature; and Articles in the diocesan paper/website. Figure 1 displays the results from the second part of the question.

Table 8.1. Diocese involvement in public policy processes or activities

	N	%
Yes	42	100.0
No	0	0.0
Total	42	100.0

Table 8.2. Diocese public policy processes or activities

	N	%
Lobbying	22	52.4
Advocacy	32	76.2
Letter writing	34	81.0
Association with community organizations	32	76.2
Other	4	9.5

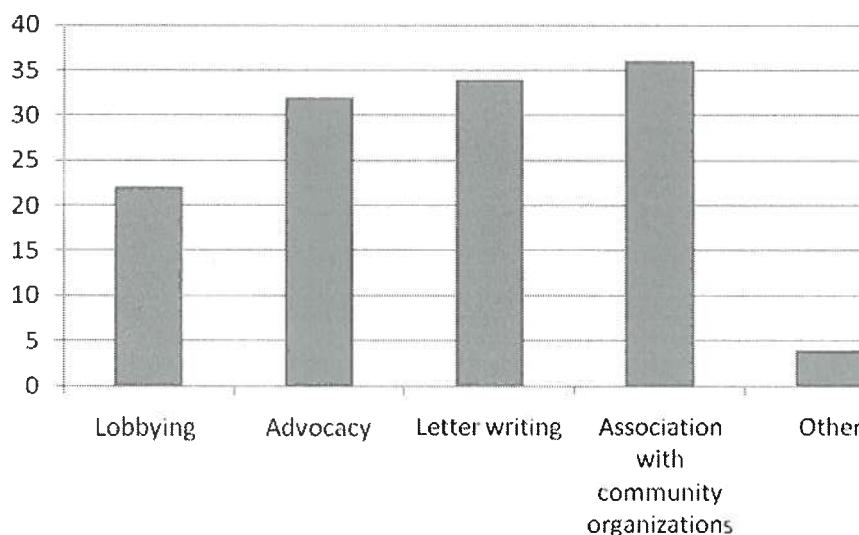


Figure 2. Diocese public policy processes or activities

Table 8.1, 8.2 and Figure 2 refer to the survey results of the following question: Is the diocese, over which you preside, involved in any public policy processes or activities?

Table 8.1 displays the yes and no responses of the bishops. They are distributed as follows: 0% responded “no” to the question; and 42 or 100% responded yes to the question. Table 8.2 displays the responses to the second part of the question, which asks the bishops to check all public policy processes or activities in which the diocese is involved. The response distribution is as follows: 22 or 52.4% of bishops state that the diocese is involved in lobbying; 32 or 76.2% of bishops state that the diocese is involved in advocacy; 34 or 81.0% of bishops state that the diocese is involved in letter writing; 32 or 76.2% of bishops state that the diocese is in association with community organizations; and 4 or 9.5% of all bishops state “other”. The “other” responses were as such:

Collaboration with and support of the Colorado Catholic Conference; Legal challenges to city government rulings; Legal challenges to federal government rulings; and

Participation in Catholic Public Policy Commissions. Figure 2 displays the results from part II of this question.

Table 9. Diocese involvement in public policy areas

	N	%
Defense of Marriage	41	97.6
Abortion	40	95.2
Capital Punishment	35	83.3
Education	39	92.9
Euthanasia	32	76.2
Human Cloning	17	40.5
Trafficking	20	47.6
Environment	21	50.0
Poverty/ Economic Justice	39	92.9
Immigration	39	92.9

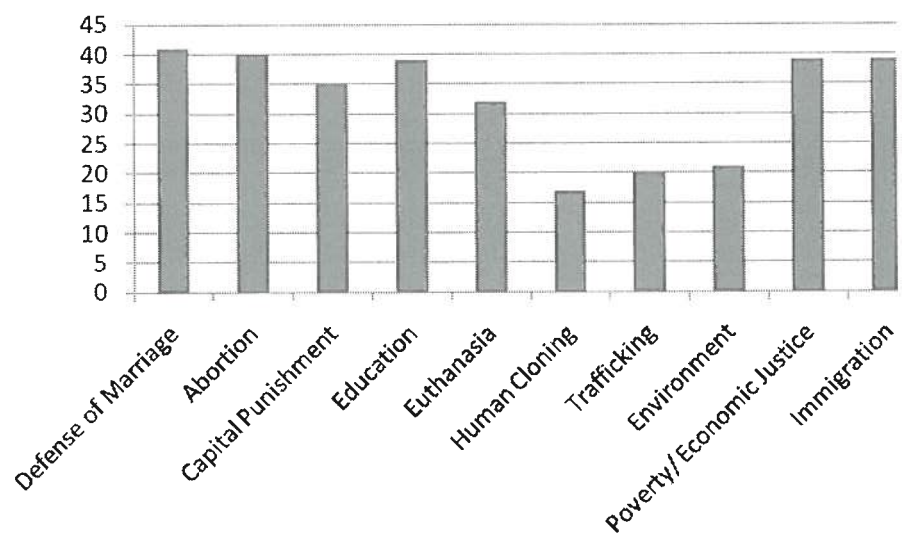


Figure 3. Diocese public policy areas

Table 9 and Figure 3 refer to the survey results of the request of bishops to select all public policy areas in which the diocese, over which they preside, is involved. Table 9 displays the distribution as follows: 41 or 97.6% of bishops state that the diocese is involved in the defense of marriage public policy area; 40 or 95.2% of bishops state that the diocese is involved in the abortion public policy area; 35 or 83.3% of bishops state that the diocese is involved in the capital punishment public policy area; 39 or 92.9% of bishops state that the diocese is involved in euthanasia public policy area; 17 or 40.5% of bishops state that the diocese is involved in human cloning public policy area; 20 or 47.6% of bishops state that the diocese is involved in trafficking public policy area; 21 or 50% of bishops state that the diocese is involved in the environment public policy area; 39 or 92.9% of bishops state that the diocese is involved in the poverty/ economic justice public policy area; and 39 or 92.9% of bishops state that the diocese is involved in the immigration public policy area. Figure 3 exhibits the results reflected in Table 9.

Summary of Survey Results

The survey results were tabulated using SPSS analytical software in order to properly present the data necessary for this study. The results of the survey are used to answer research question 1-- “In what ways do Catholic bishops influence public policy in the U.S.?” Specifically, the response to question #10 on the survey allowed the bishops to state additional comments in relation to their participation and influence in public policy processes, and those responses are used in order to address research question 1 as well. The interpretations of these responses are stated in their original form and are used to support the arguments set forth by the Catholic Church in relation to public policy influence.

This survey is unique as a contribution to the existing literature in that it provides insight into a framework that has remained untouched. The Catholic Church as a body, specifically leadership, has been a very closed and protected institution. Therefore, the willingness of bishops to participate in such a study is profound, and speaks to the desire of the bishops to voice individual opinions. This survey provided bishops with an outlet that has not otherwise been made available from those external of the U.S. Catholic Church within the United States regarding public policy.

CHAPTER V

CONCLUSION

Introduction

The primary purpose of this study is to determine the influence of the Catholic Church on public policy in the United States. This issue is important, because it examines the nature and the evolution of the separation of church and state. Also, this study allows for insight into the role of the Catholic Church currently, and the intentions of the Catholic Church in the future in relation to public policy in the United States. The focus of this study was to identify the ways in which Catholic Church leadership influence public policy, the relevance and effect of the Catholic Church in public policy processes, and overall separation of church and state.

This chapter discusses the overall conclusions formed from the data collected in this study. The research questions of this study are addressed in relation to the data collected from the survey and the analyses of the original documents. The limitations of this study are presented in order to acknowledge areas of possible expansion. Implications for political science research are discussed, and the recommendations for further research are presented.

Discussion

Research Questions

The purpose of this study is to explore the influence of the Catholic Church in relation to separation of church and state. The three questions presented in this study were:

1. In what ways do Catholic bishops influence public policy in the U.S.?
2. In what ways is the common theme, “separation of church and state,” diminishing in relation to public policy?
3. How does the Catholic Church define its role in public policy processes?

Research Question 1 is addressed by the data collected from the surveys distributed to the USCCB is used. The survey asks the bishops questions specifically about their own role in public policy processes, the role played by members in the diocese over which they preside, and the types of public policy activities and areas of participation. The bishops acknowledge their role and influence in public policy processes through response to the constant demand for the spread of Catholic social teaching within the diocese. The bishops indicate through their responses to the survey that their role is to communicate such teachings through letters, statements, and discussion. Therefore, it can be determined that the bishops are required to be involved with public policy processes according to doctrine, for all of the bishops responded as claiming involvement in public policy processes. The bishops dictate the direction and key focus areas of the diocese, but the primary foundational principle is the respect for

human life and dignity. This drives the influential role of the bishops to involve themselves in public policy processes. From the responses to the survey, a majority of bishops indicated that letter writing to news entities is mostly used to address public policy issues.

Within the survey, there was one question that provided the opportunity for bishops to freely express an opinion of their involvement in public policy processes. The responses to the question provided increased insight into the mindset of the bishops. Specifically, the bishops expressed their right to be involved in public policy processes and the necessity of involvement in public policy processes.

The statements by the bishops carried similar themes, but clearly seek to validate their involvement in public policy processes. The reasons they have stated for their involvement and influence on public policy processes are as follows: 1) The ability of the bishop to address moral issues is not prohibited by the Constitution, rather it is essential for people to address such moral evils in society; 2) The bishops and diocese partner with community organizations in order to push an agenda for the destruction of public policies that demean the common good of society; 3) The bishops have a right to voice moral concerns for society in relation to public policies that are not beneficial to society; therefore, there should be a separation of church and state, but not a separation of church and society; 4) The bishops have pushed for reform on the federal level in various areas of public policy; 5) The bishops have made specific public policy areas a priority for the diocese and have consistently written letters advocating for change; 6) The bishops, on

behalf of the Catholic Church, have a right to play a public role in civil life; and 7) It is clear that the Establishment Clause is directed toward the government and not the Church. Therefore, church leadership has as much right as any other citizen to influence public policy.

The bishops of the Catholic Church have indicated in the responses to the survey that their primary method of influence on public policy is through various means of communication. The bishops remain consistent with the teachings of the Catholic Church in their efforts as well as their presentation of reasons for involvement. Many acknowledge that their influence stems from the regard for the position of bishop, and the reverence that many citizens involved in the political arena have for church leadership.

Research Question 2 is addressed by the three documents analyzed and interpreted in chapter four. The three documents used to answer this research question are: Marriage: Love and Life in the Divine Plan, A Pastoral Letter of the United States Conference of Catholic Bishops; Evangelium Vitae, An Encyclical Letter by Pope John Paul II; and A Culture of Life and the Penalty of Death, A Statement of the United States Conference of Catholic Bishops Calling for an End to the Use of the Death Penalty. These three documents discuss the three key public policies of focus for this study as well as blurred separation of church and state.

Within the first document, Marriage: Love and Life in the Divine Plan, the issue of same-sex marriage is discussed as well as the divinity of marriage. The USCCB indicates that marriage is necessary for society and that the institution of marriage links

the secular society to the spiritual. According to the USCCB, marriage has a spiritual undertone that must be regarded and honored throughout society, and the redefining of the institution is the destruction of the family unit. This document addresses the research question in that it expresses the Church's position on same-sex marriage policy within the United States. The Catholic Church leadership vows to inject itself in the processes of this policy with a purpose to impede the progression of the policy due to its non-alignment with biblical doctrine.

The second document, *Evangelium Vitae*, addresses this research question in its defense of life. Pope John Paul II acknowledges the regard for civil laws, but advises that respect for life must be valued in all cases. Therefore, there is no separation of church and state in this sense, because doctrine calls for leadership and those of the Catholic faith to stand against such policies that support immoral practices such as abortion.

The third document, *A Culture of Life and the Penalty of Death*, also addresses the separation of church and state in the sense that the USCCB calls for the abolishment of the death penalty in the United States. The USCCB expresses the connection to death penalty policies, because it is the destruction of life. According to the USCCB, the destruction of life violates the whole of society in that taxpayer dollars support the practice, and violates the 1st commandment.

It is important to recognize that the Catholic Church does not acknowledge a boundary as far as the separation of church and state in relation to the church, but it does highlight the inability of the government to restrict the church from involvement in

political affairs. The separation of church and state is still in effect as far as its original intent, which is outlined in the Establishment Clause. The separation is still relevant in order to maintain a pluralistic society. The reason that questions continue to rise in relation to separation of church and state is due to the influence of the church. The church has a divine power within United States society, and it is evident in the controversy that surrounds policies such as abortion, capital punishment, and same-sex marriage.

Research Question 3 is addressed by the analysis and interpretation of 'Forming Consciences for Faithful Citizenship, A Call to Political Responsibility from the Catholic Bishops of the United States.' This document outlines the complete perspective of the Catholic Church in reference to its place in political activities. The document reflects key positions of validation in reference to the mandatory nature of the Catholic Church's role in public policy processes. This document outlines the call for Catholics to live a life of love as Jesus Christ loved, to vote in accordance with the moral convictions of scripture and Catholic teachings, and for Catholics in political leadership to adhere to the teachings of the Church. The USCCB states that the Catholic Church defines its role as one that is central and key to the common good of society, and that the Catholic Church is commanded to play a part in the moral shaping of society. This document was created as a direct answer to the questioning of church presence, specifically the Catholic Church.

Limitations of the Study

This study was limited primarily by the percentage of participation of the Catholic bishops in returning completed surveys. The sampling yielded only thirty percent of responses that could generally be considered acceptable and useful. Many of the bishops feared that their identities would be revealed in the study despite the assurance of confidentiality in the form of a letter agreement, and therefore, many did not answer specific questions. This resulted in the inability to use incomplete surveys in the study. The bishops who rejected participation in the survey all together expressed time restraints regarding their schedules for the months during the time period of this study. Also, some of the bishops questioned the use of the data in future publications. The inability to control the sharing of the data raised concerns for many of the bishops. In reference to these explanations provided by the bishops a greater percentage of the USCCB population was not included in the results of the survey.

Another limitation of this study was the access to many of the bishops given their geographic locations throughout the United States. The inability to physically deliver a product such as a survey to individuals proposes difficult measures of accomplishing the objective of completion. Face to face contact can often provide an environment of expediency and also comfort for the participant. A further limitation of the study is the usage of only Catholic bishops. Bishops from other denominations could have been used, but due to the organized presence of the Catholic Church in the United States, the sample population was limited to the USCCB. This research could be expanded in the

future by including other denominational leadership. The restriction to this population excluded laypersons and other clergy of the Catholic Church within the United States. While this study was conducted in its entirety, the population sample is not large enough to make a generalization applicable to the entire United States Catholic Church. In spite of the sample size, this research study is valuable in that it contributes to the current literature, highlights the issue of separation of church and state in modern society, and provides an introductory pathway for future research on the influence of churches on public policy in the United States.

Implications for Political Science Research

Overall, the goal of this study was to produce an expansive work in the area of political science that contributes to the lack of research and missing data on the Catholic Church's influence on public policy processes. In the field of political science, political theory and practice are the essential focus of the academic discipline. As far as the theoretical applications of this study, the theories used to explain the influence of the Catholic Church on political affairs were Charles- Louis de Secondat, baron de La Brede et de Montesquieu's (Montesquieu) Theory of Separation of Governmental Powers, David Easton's Systems Theory, and Divine Command Theory. These theories selected for this study allow for the explanation of the conclusions drawn from the data analysis portion of this study. Montesquieu's Theory of Separation of Governmental Powers provided a foundation for the original intent of the separation of church and state, which

was clarified and validated by the actions of the Catholic Church. David Easton's Systems Theory explains the concept of influence and the breakdown of the system in terms of power entities, which is acutely relevant to this study in the application of the ability of the Catholic Church. The last theory used in this study to explain the political science foundation of this study was Divine Command Theory. Divine Command Theory explains the role of the Catholic Church in public policy processes, and the motivation behind the actions of the church. The uncertainty of the study stems from the inability to measure the political influence of the USCCB in representing the Catholic Church. Rather, this study offers the identification of the political reach of the Catholic Church in relation to influence.

For political science researchers, understanding the concepts of institutions that function solely to impact public policy is directly related to the field of political science. The institutions of religious organizations that seek to operate in this manner require further examination in relation to political practices within society. Assumptions are often made regarding religious entities in terms of common good practices throughout society, but this area requires further examination in terms of the objectives and overreaching of the institutions. The shaping of public policy is paramount to the operation of society, and the extreme influence of one powerful institution, ideologically or religiously, jeopardizes the concept of pluralism. As political scientists, further research is needed in order to examine this influence on a larger scale to make generalizations amongst various populations and institutions of the religious sector.

Recommendations

The purpose of this study is to make a contribution to the existing literature on the influence of the Catholic Church on public policy. Specifically, this study examines the relevance, influence, and effect of the Catholic Church on public policy. Given the information and data collected in this study, the following recommendations are presented:

1. Expansion of this study through replication with a larger population source in the Catholic Church with emphasis on leadership.

This study examines the influence of the United States Conference of Catholic Bishops as a population representative of the Catholic Church. It is imperative that the entire Catholic Church is represented in a manner reflective enough to reach a solid generalization. In relation to future studies conducted in this area of research, collecting data at organized sessions of Catholic clergy over greater periods of time allows for an increased population sample. Also, the inclusion of all clergy provides for an increased population sample for social scientific research.

2. Increased education on the true meaning and function of separation of church and state within society.

In the area of political science, many researchers of the discipline understand the meaning of separation of church and state, but many continue to misinterpret the meaning. Therefore, increased education on the intent and clarification of the separation of church and state by government entities provides a defined standard of operation

throughout society for such institutions. This reduces the misunderstanding of the church's role in public policy processes, maintains the rights of the religious institutions, and preserves the power of the government. Although the Establishment Clause resides within the U.S. Constitution, the lines have blurred as it relates to the separation of church and state.

3. Increased education on the objectives of the Catholic Church through access to leadership.

Increased education on the Catholic Church allows for the inability to misinterpret the intentions of the institution in relation to public policy processes. The lack of access to leadership promotes misinformation and a lack of information in relation to the teachings of the Catholic Church. For this research, the lack of easy access to the bishops decreased the ability to obtain a large enough sample upon which to make generalizations, and to receive increased reflections from the Catholic Church leadership in relation to its practice in the political sphere. Although the Catholic Church distributes general documentation consisting of the church teachings, the teachings lack individual thought and expression.

Summary

This study examined the influence of the Catholic Church on public policy in relation to the separation of church and state. This study attempted to identify the relevance, influence, and effect that the Catholic Church has on public policy. The

relevance of the Catholic Church was revealed as a need for the church to provide moral shaping of society, and public policies play a primary role in this process. The influence was identified in the methods that Catholic leadership uses, i.e. communication tools, to engage society and the unified effort of dioceses. The effect of the Catholic Church on public policy was identified in the forming of consciences, which reaches those political decision-makers who adhere to the teachings of the Catholic doctrine. These identifications state the original exploration of this study in relation to separation of church and state.

The U.S. Constitution, 1st Amendment, prohibits the government in relation to restricting the exercise of religion, but neglects to mention religious restrictions. This portion of the U.S. Constitution tends to be misconstrued and despite past explanations of the separation of church and state, the boundaries have become blurred to the extent of a lack of definition in contemporary society. In essence, the Catholic Church has defined its own role in public policy processes just as any other societal organization in the United States. The Catholic Church, specifically its leadership, gain increased recognition within the religious sector regarding public policy influence due to the organized effort of the institution.

Recently, the USCCB voted in a new president, and this is the type of action that causes a shift in organizational agendas towards focus areas such as public policies. The shift came similar to the time of the shift in Congress from Democratic majority-rule to Republican majority-rule in the House. Within the USCCB, the election of Archbishop

Timothy Dolan was by a narrow margin of 128-111. Also, according to the USCCB, “It marks the first time since the bishops' conference was reorganized in 1966 following the Second Vatican Council reforms that a sitting vice president who sought the presidency did not win the election.”¹ This indicates that there is clearly an internal fight of power due to the direction of the Catholic Church. The Catholic Church has maintained a strong conservative push in the arena of public policy. This suggests that the lack of leadership eagerness to participate in this survey study concerning such sensitive topics of public policy will remain minimal. Therefore, given the direction of contemporary society, the Catholic Church leadership is attempting to organize the Church in a greater capacity to increase its power and presence in public policy processes through Catholics.

1. USCCB, “Incoming President of USCCB Surprised but Grateful for His Election,” *Catholic News Service* (November 17, 2010): 1.

APPENDIX A

Introductory Letter for Bishops

Dear Bishop,

My name is Jasmine Younge, and I am currently a Doctoral Candidate requesting your assistance in completing a questionnaire in relation to the completion of my dissertation at Clark Atlanta University. The data collected will contribute towards the analysis of the influence of the Catholic Church on public policy. This letter will serve as a written declaration in relation to confidentiality of the respondents. The collected data will be included in the dissertation, and may be used in publications in the future. The original surveys received from respondents will be destroyed, and only the results will be maintained. **Please fill out the attached survey, and email the completed copy to jyounge@cau.edu.** If you require any further information or have any concerns, please feel free to contact me (information below) or Dr. William Boone (Advisor) at (404) 880-8719. Your participation is appreciated.

Sincerely,

Jasmine E. Younge
Adjunct Professor
Clark Atlanta University
Knowles Hall, Rm. 315
Atlanta, GA 30314
(404) 880-8731

APPENDIX B

Questionnaire

Please fill out the survey by marking the box that best represents your ideal response to the question. The information collected is confidential and will be used for statistical purposes only.

1. Age

Please check the appropriate box

- ☐ 30-39
- ☐ 40-49
- ☐ 50-59
- ☐ 60-69
- ☐ 70-79
- ☐ 80-89
- ☐ 90 and up

2. What is your highest level of education attained?

- ☐ Bachelors
- ☐ Masters
- ☐ Doctorate

3. In what part of the United States is the diocese over which you preside?

- ☐ Northeast (CT, DE, DC, MA, MD, ME, NH, NJ, NY, PA, RI, VT)
- ☐ Southeast (AL, AR, FL, GA, KY, LA, MS, NC, SC, TN, VA, WV)
- ☐ Midwest (IL, IN, IA, KS, MI, MN, MO, ND, NE, OH, SD, WI)
- ☐ Southwest (AZ, NM, OK, TX)
- ☐ West (AK, CA, CO, HI, ID, MT, NV, OR, WY, UT, WA)

4. How long have you served as a bishop?

- ☐ 1-10 years
- ☐ 11-20 years
- ☐ 21-30 years
- ☐ 31-40 years
- ☐ 41+ years

Appendix B (continued)

There has been constant controversy within the United States over the appropriate role of the Church in the affairs of the state. In the U.S. Constitution, the Establishment Clause states that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

5. Is it your view that the Establishment Clause of the U.S. Constitution prohibits Church involvement in public policy processes?

- ☐ Yes
☐ No
☐ Other _____

6. Do you believe there should be a separation between church and state?

- ☐ Yes
☐ No

7. Are you involved in any public policy processes or activities?

- ☐ Yes
☐ No **SKIP to question# 8**

Check all that apply

- ☐ Pastoral letters to the faithful in the parishes of the diocese expressing interpretation of the Church's teaching on the selected issue or public policy
☐ Letter to a local newspaper, interpreting the Church's doctrine
☐ Directing priests in your diocese to organize discussion groups or forums around the issue
☐ Using established auxiliaries in the parishes to keep or become informed about the issue and the Church's teaching
☐ Encouraging and promoting public witness to the Church's stance
☐ Other _____

8. Is the diocese, over which you preside, involved in any public policy processes or activities?

- ☐ Yes
☐ No **SKIP to question# 9**

Check all that apply

- ☐ Lobbying
☐ Advocacy
☐ Letter writing
☐ Association with community organizations

Appendix B (continued)

☐ Other _____

9. Please indicate which public policy area(s) the diocese, over which you preside, is involved.

Check all that apply

- ☐ Defense of Marriage
- ☐ Abortion
- ☐ Capital Punishment
- ☐ Education
- ☐ Euthanasia

- ☐ Human Cloning
- ☐ Trafficking
- ☐ Environment
- ☐ Poverty/ Economic Justice
- ☐ Immigration

10. Please provide any additional information you believe would help to explain any of your responses.

Thank you for your cooperation.

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